



## **MEDICAL BOARD OF CALIFORNIA**

Regulations Relating to the Practice of:

Physicians and Surgeons  
Research Psychoanalysts  
Medical Assistants  
Licensed Midwives  
Registered Dispensing Opticians

*Includes amendments through February 20, 2003*

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**DIVISION 13. MEDICAL BOARD OF CALIFORNIA\***

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\*For disposition of former Sections 1370-1375.45, see Table of Parallel Reference, Chapter 13.2, Title 16, California Code of Regulations.

**CHAPTER 1. DIVISION OF LICENSING****Article 1. General Provisions****1300. Citation.**

This chapter shall be cited and referred to as the "Medical Practice Regulations."

NOTE: Authority and reference cited: Section 2018, Business and Professions Code.

HISTORY:

1. Repealer of Chapter 13 (Articles 1-6, 6., 7, 7.5, 8, 9, 9.1, 10-12, 12.1, 12.2, 12.5, 13, 14, Sections 1300-1378.7, not consecutive) and new Chapter 13 (Subchapters 1-3, new Sections 1300-1377, not consecutive and renumbering of Article 15 to Article 5, Section 1379-1379.86) filed 5-20-77; effective thirtieth day thereafter (Register 77, No. 21). For latest prior history, see Register 76, No. 52.
2. Amendment filed 8-4-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1300.1. Administration.**

The Division of Licensing shall administer the provisions of this chapter.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2005, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1300.2. Location of Office.**

The principal office of the Division of Licensing of the Medical Board of California of the State of California is located at 1430 Howe Avenue, Sacramento, California 95825.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2019, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Change without regulatory effect amending section filed 9-9-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 51).

**1300.3. Tenses, Gender and Number.**

NOTE: Authority and reference cited: Section 2018, Business and Professions Code.

HISTORY:

1. New NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1300.4. Definitions.**

Unless the context otherwise requires, for the purpose of the regulations contained in this chapter,

(a) "Board" means the Medical Board of California,

(b) "Division" means the Division of Licensing,

(c) "Code" means the Business and Professions Code.

NOTE: Authority and reference cited: Section 2018, Business and Professions Code.

HISTORY:

1. New NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Change without regulatory effect amending subsection (a) filed 9-9-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 51).

**1300.5. Continuation of Existing Regulations.**

NOTE: Authority and reference cited: Section 2018, Business and Professions Code.

HISTORY:

1. New NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1301. Delegation to Chief of Licensing.**

(a) The authority of the division to approve applications and issue certificates or licenses with or without an examination, to designate the location of and to administer examinations, and to approve applications for and issue fictitious name permits is hereby delegated to the chief of licensing of the division, or his or her designee.

(b) Applications for licensure and applications for participation in special programs and faculty appointments authorized in the Medical Practice Act may be referred in accordance with subsection (c) to the division's Application Review Committee or Special Programs Committee, as the case may be. Members appointed to the committees may advise the chief of licensing, or his or her designee on the disposition of the above-mentioned applications.

(c) An application accompanied by necessary supporting documentation may be referred to the applicable committee referred to in subsection (b) at the request of the applicant, at the request of a division member, or at the instance of the chief of licensing, or his or her designee.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2099, 2111, 2112, 2113, 2174 and 2415, Business and Professions Code.

**HISTORY:**

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment of section and Note filed 3-9-94; operative 4-8-94 (Register 94, No. 10).
4. Change without regulatory affect to amend subsections (a), (b) and (c) filed 2-26-01 pursuant to title 1, section 100 of the Cal. Code Reg (Register 2001, No. 10).

**1301.1. Delegation to Program Manager.**

NOTE: Authority cited: Section 2018, Business and Professions Code.

**1301.2. Delegation Regarding Locations of Examinations.**

NOTE: Authority cited: Section 2018, Business and Professions Code.

**HISTORY:**

1. Repealer filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1302. Delegation of Functions.**

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act Section 11500, et seq. of the Government Code, the division delegates and confers upon the executive director of the Board, the assistant executive director, the chief of enforcement, or the chief of licensing, or his or her designee of each of those persons, all functions necessary to the dispatch of business of the division in connection with investigative and administrative proceedings under the jurisdiction of the division relative to denials of licensure.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2099, 2221 and 2230, Business and Professions Code; and Section 11500, Government Code.

**HISTORY:**

1. Renumbering and amendment of Section 1302 to Section 1303 filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history, see Register 81, No. 32.
2. New section filed 2-16-84; effective thirtieth day thereafter (Register 84, No. 7).
3. Change without regulatory affect to amend section filed 2-26-01 pursuant to title 1, section 100 of the Cal. Code Reg (Register 2001, No. 10).

**1303. Filing of Addresses.**

Each person holding a certificate, license, permit or any other authority issued under the Medical Practice Act shall file his or her proper and current mailing address with the division in its principal office, and shall immediately notify the division at its office of any and all changes of mailing address, giving both the old and new address.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2423 and 2424, Business and Professions Code.

**HISTORY:**

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Renumbering and amendment of former Section 1302 to Section 1303 filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1304. Adequate Security for Outpatient Surgery.**

For purposes of Section 2216.2 of the code, “adequate security” means that a physician has coverage of the type prescribed in Section 2216.2 of the code in the amount of not less than one million dollars per incident and not less than three million dollars per year. The division shall reevaluate the requirements in this regulation at least every three years.

NOTE: Authority cited: Sections 2018 and 2216.2, Business and Professions Code. Reference: Section 2216.2, Business and Professions Code.

HISTORY:

1. New section filed 12-5-00; operative 1-4-01 (Register 2000, No. 50). For prior history, see Register 95. No. 3.

**Article 2. Applications****1305. Date and Place of Filing.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2083 and 2141, Business and Professions Code.

**HISTORY:**

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 6-2-83; effective thirtieth day thereafter (Register 83, No. 23).
3. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).
4. Change without regulatory effect amending section filed 7-26-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 31).
5. Change without regulatory effect repealing section filed 9-10-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 37).

**1305.5. Accompanying Photograph of Diploma.****HISTORY:**

1. Renumbering of Section 1305.5 to Section 1307 filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1306. Applications and Refund of Fees.**

An application shall be denied without prejudice when an applicant does not exercise due diligence in the completion of the application. Failure to complete the application within one year constitutes failure to exercise due diligence.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2082, 2141 and 2435, Business and Professions Code.

**HISTORY:**

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Change without regulatory effect amending section filed 9-10-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 37).

**1307. Accompanying Photograph of Diploma.**

(a) A photographic copy of the diploma, in lieu of the original, may be furnished by the applicant for permanent filing with the division, if he or she is a graduate of an approved medical school.

(b) In the case where the diploma has been lost or is unavailable or the medical school which issued the original diploma has been closed, a certification of the records made by the executive officer of the medical licensing authority of the state in which the applicant was licensed, giving the date appearing on the diploma, will be accepted when duly signed and sealed.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2082 and 2142, Business and Professions Code.

**HISTORY:**

1. Repealer of Section 1307 and renumbering of Section 1305.5 to Section 1307 filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1308. Hearings on Denial of Applications.**

An applicant for examination or license whose credentials indicate ineligibility as determined by the division may be given a hearing pursuant to the Administrative Procedure Act if such a hearing is formally requested by the applicant or is so ordered by the division.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2005, Business and Professions Code.

**HISTORY:**

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1309. Rehabilitation Criteria for Denial of Licensure.**

When considering the denial of a license, certificate or permit under Section 480 of the code, the division, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, certificate or permit, shall consider the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsections (a) or (b).
- (d) The extent to which the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.
- (e) Evidence, if any, of rehabilitation submitted by the applicant.

NOTE: Authority cited: Sections 482 and 2018, Business and Professions Code. Reference: Sections 480, 482 and 2220-2317, Business and Professions Code.

**HISTORY:**

1. Repealer and new NOTE filed 6-4-79; effective thirtieth day thereafter (Register 79, No. 23).
2. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**Article 3. Physician Incentive Pilot Program****1310. Delegation of Authority.**

The power and discretion conferred upon the division to review applications for loans and to otherwise administer and enforce the provisions of Article 11 (commencing with Section 2200) of Chapter 5 of Division 2 of the code are hereby delegated and conferred upon the executive director and his or her staff.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2202, Business and Professions Code; Section 7, Government Code.

**HISTORY:**

1. Repealer of Article 3 (Section 1311) and new Article 3 (Sections 1310-1313) filed 5-14-81; effective thirtieth day thereafter (Register 81, No. 20).

**1311. Application Deadline and Content.**

(a) Applications for loans under this article shall be filed by October 15 for loans to be made during the current fiscal year.

(b) Each application shall include a written summary of the applicant's plan for establishing a medical practice in the underserved area.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2205, Business and Professions Code.

**1312. Loan Agreement; Interest.**

(a) Upon approval of an application, each applicant shall complete and sign a loan agreement provided by the division.

(b) Interest shall be compounded annually at the end of each fiscal year on the unpaid balance of the loan.

(c) Interest shall continue to accrue during those periods in which payment may be deferred as a result of active military duty or nonmilitary public service.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2205, 2208 and 2210, Business and Professions Code; Section 1916, Civil Code.

**1313. Change of Status.**

A determination made by the California Health Manpower Policy Commission that an area of the state is no longer underserved and deficient in primary care medical services after a loan is approved by the division shall not affect the applicant's eligibility to receive the loan or to have all or part of the loan canceled pursuant to Section 2208 of the code.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2205, 2208 and 2213, Business and Professions Code.

**Article 3.5. Outpatient Setting Accreditation Agencies****1313.2. Definitions.**

(a) "Accredited" shall include, for purposes of section 1248.1(g) of the Health and Safety Code, not only full accreditation but also provisional accreditation granted by an accreditation agency to an outpatient setting, provided that (1) the outpatient setting is in substantial compliance with the accreditation agency's standards; (2) the deficiencies in compliance do not affect the quality of patient care; and (3) the deficiencies will be corrected within six months of the date on which the outpatient setting was granted provisional accreditation.

(b) "Accreditation agency" has the meaning given to it in section 1248(d) of the Health and Safety Code.

NOTE: Authority cited: Sections 2018 and 2217, Business and Professions Code. Reference: Section 1248, Health and Safety Code.

HISTORY:

1. New article 3.5 and section filed 1-18-96; operative 2-17-96 (Register 96, No. 3).

**1313.3. Applications; Processing Times.**

(a) An application for approval as an accreditation agency shall be filed with the division at its principal office and shall be accompanied by the fee prescribed by this article.

(b) An application shall include the following information and documents:

(1) Name and address of applicant;

(2) Date applicant began to operate as an accreditation agency;

(3) Copy of applicant's current accreditation standards;

(4) A list of all outpatient settings accredited or certified by applicant;

(5) Information to establish the applicant's compliance with sections 1248.15 and 1248.4 of the Health and Safety Code and section 1313.4.

(c) The division shall inform an applicant for approval as an accreditation agency in writing within 30 days of receipt of an application whether the application is complete and accepted for filing or is deficient and what specific information or documentation is required to complete the application.

(d) The division shall inform an applicant for approval as an accreditation agency within 120 days after completion of the application of its decision whether the applicant meets the requirements for approval. An application is considered complete if it is in compliance with the requirements of sections 1248.15 and 1248.4 of the Health and Safety Code and section 1313.4.

NOTE: Authority cited: Sections 2018 and 2217, Business and Professions Code; Section 15376, Government Code. Reference: Sections 1248.15 and 1248.4, Health and Safety Code; Section 15376, Government Code.

HISTORY:

1. New section filed 1-18-96; operative 2-17-96 (Register 96, No. 3).

**1313.4. Standards.**

(a) An accreditation agency shall meet the standards set forth in sections 1248.15 and 1248.4 of the Health and Safety Code.

(1) With respect to section 1248.15(a)(2)(C)(i), a written transfer agreement shall include a mechanism for patient transport; a plan for transfer of the patient's records; policies defining the role of each person in handling an emergency; and a plan for continuity of the patient's care upon transfer of that care.

(2) With respect to section 1248.15(a)(6), the required system for quality assessment and improvement shall include, in addition to chart review, actions that utilize information derived through quality assessment to improve systems to maximize patient protection.

(3) With respect to section 1248.15(a)(7), the actual sample size shall be determined by the accreditation agency.

(b) An accreditation agency shall send to the division any change in its accreditation standards within 30 calendar days after making the change.

(c) An accreditation agency shall, within fourteen calendar days after issuance, provide to the division a copy of any certificates of accreditation it issues and any denial or revocation of a certificate of accreditation. For each setting whose accreditation it denies or revokes, the accreditation agency shall also provide to the division in writing the reasons for its action.

NOTE: Authority cited: Sections 2018 and 2217, Business and Professions Code; Section 1248.15, Health and Safety Code. Reference: Sections 1248.15, and 1248.4, Health and Safety Code.

**HISTORY:**

1. New section filed 1-18-96; operative 2-17-96 (Register 96, No. 3).
2. New subsection (a)(1) and amendment to subsection (c) and renumbering, filed 12-5-00; operative 1-4-01 (Register 2000, No. 50).

**1313.5. Renewal.**

An application for renewal of approval shall be filed with the division at its principal office prior to expiration of the approval. It shall include all of the information required by section 1313.3(b) and shall be accompanied by the renewal fee prescribed by this article.

NOTE: Authority cited: Sections 2018 and 2217, Business and Professions Code; Section 1248.4(e), Health and Safety Code. Reference: Section 1248.4, Health and Safety Code.

**HISTORY:**

1. New section filed 1-18-96; operative 2-17-96 (Register 96, No. 3).

**1313.6. Fees.**

(a) The fee for temporary approval as an accreditation agency is \$2,000.

(b) The fee for approval as an accreditation agency is \$5,000.

(c) The fee for renewal of approval is \$100 for each outpatient setting accredited or reaccredited during the three years immediately preceding the filing of the renewal application.

NOTE: Authority cited: Sections 2018 and 2217, Business and Professions Code; Section 1248.6, Health and Safety Code. Reference: Section 1248.6, Health and Safety Code.

**HISTORY:**

1. New section filed 1-18-96; operative 2-17-96 (Register 96, No. 3).

**Article 4. Schools and Colleges of Medicine****1314. Approved Schools.**

(a) Those medical schools accredited by the Liaison Committee on Medical Education of the Coordinating Council on Medical Education or the Council on Medical Education of the Canadian Medical Association shall be deemed to be approved by the division for the giving of resident professional instruction in medicine.

(b) A current list of such medical schools shall be maintained on file in the Sacramento office of the division.

(c) Nothing in this section shall be construed to prohibit the division from disapproving a medical school which does not comply with Section 2089 of the code.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2037 and 2084, Business and Professions Code.  
HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment of subsection (c) filed 2-16-84; effective thirtieth day thereafter (Register 84, No. 7).

**1315. Medical School Training.**

At least the minimum number of weeks required in each core clinical course listed in Section 2089.5, subdivision (c), of the code shall be under the direction and control of the same medical school. The division may in its discretion waive this requirement in those cases where there has not been a break in an applicant's medical school training.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005 and 2089.5, Business and Professions Code.  
HISTORY:

1. New section filed 5-10-89; operative 6-9-89 (Register 89, No. 19).

**Article 4.1. Special Faculty Permits****1315.01. Definitions.**

(a) "Dean of the medical school" means the dean of the overall medical school or that person's designee to whom the dean has given written authorization to provide the certifications required by Section 2168.1 and 2168.2 of the code.

(b) "Special faculty permit" means the permit to practice medicine described in Article 8.5 of Chapter 5 of Division 2 (commencing with Section 2168) of the code.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2168.1 and 2168.4, Business and Professions Code.  
HISTORY:

1. New article and section filed 1-8-99; effective thirtieth day thereafter (Register 99, No. 02).

**1315.02. Notification of Change in Employment Status.**

The dean of a medical school that employs a special faculty permit holder shall notify the division of any change in employment status that would render the permit holder ineligible for the permit. This notification shall be signed and dated by the dean and shall be made no later than 30 days after the date on which the permit holder becomes ineligible for the permit.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2168, 2168.1 and 2168.4, Business and Professions Code.  
HISTORY:

1. New section filed 1-8-99; effective thirtieth day thereafter (Register 99, No. 02).

**Article 5. Processing Times for Applications (Permit Reform Act)****1316. Applications.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005 and 2156, Business and Professions Code.

**HISTORY:**

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Editorial correction reinstating section (Register 94, No. 40).

**1317. Qualifications for Loans.**

NOTE: Authority cited: Section 2018, Business and Professions Code.

**HISTORY:**

1. Repealer filed 8-5-81; effective thirtieth day thereafter (Register 81, No.32).
2. Editorial correction reinstating section (Register 94, No. 40).

**1318. Applications for Clinical Training Programs for Foreign Medical Students. (Section 1327)**

(a) Within 10 working days of receipt of an application to conduct a clinical training program for foreign medical students pursuant to Section 2064 of the code and Section 1327 of these regulations, the division shall inform the medical director of the health facility in writing that it is either complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the requirements of Section 1327.

(b) Within 100 calendar days from the date of filing of a completed application, the division shall inform the medical director in writing of its decision regarding the application.

(c) The division's time periods for processing an application from the receipt of the initial application to the final decision regarding issuance or denial of an approval to conduct the training program based on the division's actual performance during the two years preceding the proposal of this section were as follows:

- (1) The minimum time was 12 days.
- (2) The median time was 29 days.
- (3) The maximum time was 31 days.

NOTE: Authority cited: Section 2018, Business and Professions Code; Section 15376, Government Code. Reference: Sections 2005 and 2064, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. New article 5 (sections 1318-1319.3) filed 4-5-93; operative 5-5-93 (Register 93, No. 15). For prior history, see Register 83, No. 39.

**1319. Applications for Postgraduate Training Programs for Foreign Trained Physicians. (Section 1324)**

(a) Within 10 working days of receipt of an application to conduct a postgraduate training program for a foreign medical graduate pursuant to Section 1324(a)(2) of these regulations, the division shall inform the medical director of the health facility in writing that it is either complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the requirements of Sections 1324, subsections (a)(2) and (c), and 1325.5, subsection (a).

(b) Within 100 calendar days from the date of filing of a completed application, the division shall inform the medical director in writing of its decision regarding an application.

(c) The division's time periods for processing an application from the receipt of the initial application to the final decision regarding issuance or denial of approval to conduct the training program based on the division's actual performance during the two years preceding the proposal of this section were as follows:

- (1) The minimum time was 13 days.
- (2) The median time was 18 days.
- (3) The maximum time was 39 days.

NOTE: Authority cited: Section 2018, Business and Professions Code; Section 15376, Government Code. Reference: Sections 2005, 2101, 2102 and 2103, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. New section filed 4-5-93; operative 5-5-93 (Register 93, No. 15). For prior history, see Register 83, No. 39.

**1319.1. Application for Postgraduate Training Programs for Foreign Trained Physicians in Approved Medical Schools. (Section 2111)**

(a) Within 10 working days of receipt of an application to participate in a postgraduate training program pursuant to Section 2111 of the code and Section 1325.4 of these regulations, the division shall inform the dean of the medical school in writing that it is either complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the requirements of Section 2111 of the code and Section 1325.4.

(b) Within 100 calendar days from the date of filing of a completed application, the division shall inform the dean in writing of its decision regarding an application.

(c) The division's time periods for processing an application from the receipt of the initial application to the final decision regarding participation in postgraduate training based on the division's actual performance during the two years preceding the proposal of this section were as follows:

- (1) The minimum time was 1 day.
- (2) The median time was 29 days.
- (3) The maximum time was 135 days.

NOTE: Authority cited: Section 2018, Business and Professions Code; Section 15376, Government Code. Reference: Sections 2005, 2101, 2102 and 2103, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. New section filed 4-5-93; operative 5-5-93 (Register 93, No. 15).

**1319.2. Application for Fellowship Programs for Foreign Trained Physicians not Located in Hospitals Affiliated with a Medical School. (Section 2112)**

(a) Within 10 working days of receipt of an application for approval of a fellowship program for foreign trained physicians not located in hospitals affiliated with a medical school pursuant to Section 2112 of the code and Section 1325.5 of these regulations, the division shall inform the hospital administrator in writing that it is either complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the requirements of Section 2112 of the code and Section 1325.5.

(b) Within 100 calendar days from the date of filing of a completed application, the division shall inform the hospital administrator in writing of its decision regarding an application.

(c) The division's time periods for processing an application from the receipt of the initial application to the final decision regarding issuance or denial of approval of the fellowship program based on the division's actual performance during the two years preceding the proposal of this section were as follows:

- (1) The minimum time was 16 days.
- (2) The median time was 28 days.
- (3) The maximum time was 44 days.

NOTE: Authority cited: Section 2018, Business and Professions Code; Section 15376, Government Code. Reference: Sections 2005, and 2112, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. New section filed 4-5-93; operative 5-5-93 (Register 93, No. 15).

**1319.3. Application to Practice Medicine in a Faculty Appointment. (Section 2113)**

(a) Within 10 working days of receipt of an application for a certificate to practice medicine as a part of an appointment to a position pursuant to Section 2113 of the code, the division shall inform the dean of the sponsoring medical school in writing that it is either complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the requirements of Section 2113 of the code.

(b) Within 100 calendar days from the date of filing of a completed application, the division shall inform the dean in writing of its decision regarding an application and shall issue the faculty member a certificate of registration.

(c) The division's time periods for processing an application from the receipt of the initial application to the final decision regarding issuance or denial of the certificate to practice medicine as a part of a faculty appointment based on the division's actual performance during the two years preceding the proposal of this section were as follows:

- (1) The minimum time was 2 days.
- (2) The median time was 29 days.
- (3) The maximum time was 70 days.

NOTE: Authority cited: Section 2018, Business and Professions Code; Section 15376, Government Code. Reference: Sections 2005, and 2113, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. New section filed 4-5-93; operative 5-5-93 (Register 93, No. 15).

**1319.4. Applications for Medical Licensure (Section 2101, 2102, 2103, 2135, or 2151).**

(a) Within 60 working days of receipt of an application pursuant to Business and Professions Code section 2101, 2102, 2103, 2135, or 2151 for a license to practice medicine, the division shall inform the applicant in writing whether it is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.

(b) Within 100 calendar days from the date of filing of a completed application, the division shall inform the applicant in writing of the decision regarding the application for licensure. This time frame includes the time needed to take and pass the first licensure examination offered after the division determines that an application is complete.

(c) The division's time periods for processing an application from the receipt of the initial application to the final decision regarding issuance or denial of a physician and surgeon license based on the division's actual performance during the two years preceding the proposal of this section were as follows:

- (1) The minimum time was 30 days.
- (2) The median time was 153 days.
- (3) The maximum time was 478 days.

NOTE: Authority cited: Section 2018, Business and Professions Code; and Section 15376, Government Code. Reference: Sections 2101, 2102, 2103, 2135, 2151 and 2170, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. New section filed 1-18-95; operative 2-17-95 (Register 95, No. 3).

**1319.5. Permit Processing Times—Special Faculty Permit (Section 2168).**

(a) Within 60 working days of receipt of an application pursuant to Section 2168 of the code for a special faculty permit, the division shall inform the applicant in writing whether it is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the requirements of Section 2168 through 2168.2 of the code.

(b) Within 100 calendar days from the date of filing a completed application, the division shall inform the applicant in writing of the decision regarding the application for a special faculty permit.

NOTE: Authority cited: Section 2018, Business and Professions Code; Section 15376, Government Code. Reference: Sections 2168 through 2168.4, Business and Professions Code.

**HISTORY:**

1. New section filed 1-8-99; effective thirtieth day thereafter (Register 99, No. 04).

**Article 6. Postgraduate Training****1320. Postgraduate Training Exemption Period.**

All approved postgraduate training shall count toward the two-year exemption period provided in Sections 2065 and 2066 of the code, including any training obtained within or outside of California, whether a full or partial year of training and regardless of whether the training was successfully completed.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2065, 2066, 2096, 2102, 2103, 2135 and 2428, Business and Professions Code.

**HISTORY:**

1. New section filed 2-10-00; effective thirtieth day thereafter (Register 2000, No. 6). For history of prior section, see Register 83, No. 39.

**1321. Approved Postgraduate Training.**

(a) Postgraduate training programs meeting the standards of the Accreditation Council on Graduate Medical Education or the Coordinating Council on Medical Education of the Canadian Medical Association shall be approved for the postgraduate training specified in Sections 2065, 2066, 2096, 2102, and 2103 of the code.

(b) A current list of such programs shall be maintained on file in the Sacramento office of the division.

(c) An applicant shall have been formally admitted to any postgraduate training program which is completed in order to qualify for licensure as a physician and surgeon. As used in this section, "formally admitted" means the applicant has met the program's requirements for admission to the programs.

(d) An applicant shall have completed one continuous year of approved postgraduate training in a single program in order to qualify for licensure as a physician and surgeon. The one year may be interrupted in cases due to illness or hardship. With respect to an applicant who qualifies for licensure by completing at least two years of approved postgraduate training, the second year shall be one continuous year in a single program, which may be the same or a different program than the first year. The second year may be interrupted in cases due to illness or hardship.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2037, 2065, 2066, 2096, 2102 and 2103, Business and Professions Code.

**HISTORY:**

1. Amendment of subsection (a) filed 8-15-78; effective thirtieth day thereafter (Register 78, No. 33).
2. Amendment of subsection (a) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Repealer of subsection (c) filed 2-16-84; effective thirtieth day thereafter (Register 84, No. 7).
4. Amendment of subsections (a) and (b), and new subsections (c) and (d) filed 5-10-89; operative 6-9-89 (Register 89, No. 19).
5. Amendment of subsections (a), (b) and (c) filed 3-9-94; operative 4-8-94 (Register 94, No. 10).
6. Amendment of subsections (a), (d), and NOTE filed 1-19-2000; operative 2-18-2000 (Register 2000, No. 3).

**Article 7. Foreign Medical Students and Graduates****1322. Requirements for Foreign Medical School Graduates.**

(a) Applicants for licensure as a physician and surgeon pursuant to Sections 2101, 2102 and 2103 of the code shall complete the required clinical service in a hospital approved by the division pursuant to Section 1324 below.

(b) The division shall maintain on file in its Sacramento office a list of hospitals both within and outside the state approved for the required clinical service.

(c) Applicants for licensure as a physician and surgeon pursuant to Section 2103 ("Fifth Pathway") shall complete the required clinical training in a program approved by the division pursuant to Section 2104 of the code and Section 1325 of these regulations.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2005, 2100, 2101, 2102, 2103 and 2170, Business and Professions Code.

**HISTORY:**

1. Amendment of subsection (a) filed 8-15-78; effective thirtieth day thereafter (Register 78, No. 33).
2. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment of subsection (c) and repealer of subsection (d) filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1323. Documentation.**

(a) Applicants who are graduates of a foreign medical school, except a Canadian school, shall submit with their application the original diploma and either the original or a legible reproduction of transcripts and other applicable documents showing completion of the required premedical and professional instruction, and when required, entitlement to practice medicine in a foreign country. Any original documents submitted shall be copied and returned to the applicant.

(b) All such diplomas, transcripts and other applicable documents shall be certified or authenticated by the dean, principal or other responsible officer of the school attended or the licensing authority involved.

(c) Any such documentation submitted in a language other than English shall be accompanied by a certified translation into English by a qualified translator other than the applicant.

(d) When because of circumstances beyond the control of the applicant, required documents, authentications or certifications cannot be furnished, the division in its discretion may accept certified copies of other documents or affidavits which it deems satisfactory to establish the applicant's eligibility.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2082, 2100, 2101, 2102 and 2103, Business and Professions Code.

**HISTORY:**

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1324. Postgraduate Training.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2101, 2102 and 2103, Business and Professions Code.

**HISTORY**

1. Amendment filed 8-15-78; effective thirtieth day thereafter (Register 78, No. 33).
2. Amendment of subsection (a) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment of subsection (a) filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).
4. Amendment filed 11-1-84; effective thirtieth day thereafter (Register 84, No. 47).
5. Amendment of heading and subsections (a)-(c) filed 10-12-89; operative 11-11-89 (Register 89, No. 42).
6. Amendment filed 5-6-92; operative 6-5-92 (Register 92, No. 19).
7. Repealer filed 10-17-97; effective thirtieth day thereafter (Register 97, No. 42).

**1325. Criteria for Approval of Clinical Training Programs for Foreign Medical Graduates.**

Pursuant to Section 2104 of the code the following is the criteria for the approval of clinical training programs required of applicants under Section 2103 of the code who have not completed a one year program of supervised clinical medical internship operated by a medical school.

(a) The medical school shall provide supervision equivalent to that given to undergraduate medical students.

(b) The medical school shall require evidence of successful completion of the formal academic curriculum of a foreign medical school.

(c) A screening examination in the form of National Board, Part I or Day I of FLEX or their equivalent shall be successfully passed by the applicant before admission to the program. The ECFMG examination or other examinations approved by the Council on Medical Education may be used for this purpose.

(d) The competence of each accepted student shall be individually evaluated so that the clinical training will correspond to the need of the student.

(e) The year of supervised clinical training shall include experience in each of the major clinical departments.

(f) In order to emphasize the educational nature of the experience for the student, and to clearly distinguish the year of supervised clinical training from an "externship," or an internship, the hospital shall not remunerate the student and the student shall not accept any remuneration, from either the hospital or its medical staff, which could be construed as payment for house officer services.

(g) The medical school shall retain appropriate records describing the qualifications for admission, the time and duration of participation, and the achievement of the student at the completion of the year of supervised clinical training. A determination shall be made that the student is, or is not, competent to enter a program of graduate medical education.

(h) Individuals in this program shall be designated "Clinical Trainee" and wear badges so identifying them.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2103 and 2104, Business and Professions Code.

**HISTORY**

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 31).
2. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1325.4. Criteria for Approval of Foreign Trained Physicians for Postgraduate Study in Approved Medical Schools.**

(a) Pursuant to Section 2111 of the code, a foreign trained physician who seeks postgraduate study in a medical school approved by the Division shall submit a written application which includes:

(1) Documentation of an appointment from the dean of the medical school showing that the applicant will be permitted to participate in the professional activities of the school; and

(2) A statement from the chairperson of the department where the physician will be serving which indicates the clinical duties which will be assigned the applicant and which states that the applicant will be under a designated supervisor who is a licensed physician.

(b) All orders made by the physician shall be countersigned by a licensed physician.

(c) Physicians approved under this Section shall not hold themselves out as possessing any type of license to practice medicine in this state.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005 and 2111, Business and Professions Code.

**HISTORY:**

1. New section filed 12-13-77; effective thirtieth day thereafter (Register 77, No. 51).
2. Amendment of subsection (a) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1325.5. Criteria for Approval of Fellowship Programs for Foreign Trained Physicians Not Located in Hospitals Affiliated with a Medical School.**

(a) Approval of fellowship programs by the division shall be pursuant to the following criteria for approval of fellowship programs for foreign trained physicians not located in hospitals affiliated with a medical school:

(1) Programs shall be conducted in hospitals which have a minimum capacity of 150 beds, excluding bassinets, which have a minimum of 5000 annual admissions, and which have a minimum of three (3) major clinical divisions represented in the hospital.

(2) The teaching staff shall include a minimum of three (3) persons; however, the ratio of teaching staff to postgraduate trainees shall be one to one. The hospital shall have a ratio of not less than twenty-five (25) beds per postgraduate trainee.

(3) Programs shall have a qualified teaching staff with educational background and professional experience. Each staff teacher shall be board-certified in his or her specialty area of teaching. The teaching staff shall be directed by a physician who possesses a "medical doctor" degree and is licensed as an "M.D." by the board and who has a clinical teaching appointment from a medical school approved by the division.

(4) One member of the teaching staff shall be in the facility at all times in which a postgraduate trainee is on duty or in training.

(5) Hospitals shall maintain adequate clinical records in conjunction with the training programs which show evidence of endorsement of the records by supervising physicians.

(6) Programs shall be conducted in hospitals which have a physician specializing in pathology on the staff who conducts clinical pathology conferences and participates in other teaching mortality and morbidity conferences.

(7) Programs shall be conducted in hospitals which have a physician specializing in radiology who participates in hospital teaching conferences. Hospitals shall have adequate fluoroscopy and viewing space to accommodate clinical trainees.

(8) Programs shall maintain an adequate medical library containing standard medical text and reference books and a representative collection of current medical journals covering the major clinical fields.

(9) Programs shall also include:

(A) adequate teaching time in proportion to service time;

(B) participation by the postgraduate in total patient care;

(C) adequate communication with attending physicians;

(D) a training committee or physician responsible for the organization, supervision and evaluation of the instruction given who shall have a teaching appointment from a medical school approved by the division;

(E) lecture facilities and teaching aids;

(F) daily ward or teaching rounds;

(G) ambulatory patient care, where appropriate;

(H) training and departmental conferences on clinical pathology, mortality and morbidity, and radiology.

(b) The application fee for approvals pursuant to this section shall be \$500.00.

(c) All approvals shall be renewed annually. There is no fee charged for filing such a renewal.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005 and 2112, Business and Professions Code.

**HISTORY:**

1. New section filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
2. Amendment of subsection (c)(1) filed 8-15-78; effective thirtieth day thereafter (Register 78, No. 33).
3. Amendment of subsection (a) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
4. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).
5. Amendment of subsection (a)(3) filed 5-6-92; operative 6-5-92 (Register 92, No. 19).

**1326. Appointments to Faculty.**

(a) Applications for approval of academic appointments under Section 2114 of the code shall be submitted on a form provided by the division accompanied by such information and documentation as is required therein.

(b) The division shall review on a case by case basis the credentials of the appointee.

(c) Approval of appointments shall be for a two (2) year period, and shall expire at the end of that time unless renewed as provided in subsection below.

(d) Applications for renewal of approval for a succeeding scholastic year shall be submitted on a form provided by the division not later than thirty (30) days prior to the end of the current academic year.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005 and 2114, Business and Professions Code.  
HISTORY:

1. Amendment of subsections (a) and (c) filed 3-23-79; effective thirtieth day thereafter (Register 79, No. 13).
2. Amendment of subsections (a) and (e) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, 39).

**1327. Criteria for Approval of Clinical Training Programs for Foreign Medical Students.**

(a) Pursuant to Section 2064 of the code a medical student enrolled in a foreign medical school may practice medicine in a clinical training program approved by the division. A clinical training program shall submit a written application for such approval and shall meet the following criteria:

(1) Programs shall be conducted in health facilities accredited by the Joint Commission on the Accreditation of Healthcare Organizations.

(2) Programs shall be under the direction of the director of a residency program approved pursuant to Section 1321 above or an active staff member who holds a faculty appointment from the clinical department of a California medical school approved by the division.

(3) The health facility shall be accredited for continuing education programs by the California Medical Association.

(4) The health facility shall have appropriate liability insurance for those medical students participating in the clinical training program approved under this section.

(5) The program shall have a ratio of one (1) student per physician supervisor or one (1) student per two (2) residents in the training program. Such physician supervisor or resident shall participate directly in the training of and provision of medical services by the medical student.

(6) The health facility shall not remunerate students for medical services rendered, but may provide room and board for students in the program.

(7) The health facility may require a fee to cover necessary administrative costs.

(8) A clinical training program in a specialty area shall not exceed twelve (12) weeks.

(9) The division determines on a case-by-case basis that a health facility has sufficient beds and occupancy by patients to provide medical students with clinical experience in the specialty area of the clinical training program.

(b) The application shall include the curriculum vitae of all individual preceptors and/or physician supervisors in the program.

(c) The health facility shall file with the division the names of those students accepted for training in the program. All students accepted shall have completed at least two (2) years of medical education and shall be in good academic standing.

(d) The approval of each clinical training program shall be for a period of one (1) year and may be renewed annually.

(e) Approval under this section shall not be required for clinical training to be taken in health facilities which are the site of a residency program approved under Section 1321, subs. (a), which is in family practice or the same clinical area as the student's training program, or in health facilities which have a major affiliation with a medical school which is approved under Section 1314, subs. (a).

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005 and 2064, Business and Professions Code.

HISTORY:

1. New section filed 6-17-77; effective thirtieth day thereafter (Register 77, No. 25).
2. Amendment of subsection (a) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment of subsection (a) and new subsection (d) filed 8-6-86; effective thirtieth day thereafter (Register 86, No. 32).
4. Amendment of subsections (a), (a)(1), (a)(3)-(4), (a)(6)-(7), (a)(9), (c) and new subsection (e) filed 4-22-92; operative 5-22-92 (Register 92, No. 18).

**Article 8. Examinations****1328. Written Examinations.**

(a) Each of the following written examinations is recognized by the division as meeting the examination requirement for licensure in sections 2101, 2102, 2103, and 2170 of the code:

- (1) FLEX (Federation Licensing Examination) component 1 plus FLEX component 2;
- (2) NBME (National Board of Medical Examiners) parts I and II plus FLEX component 2;
- (3) NBME parts I/USMLE step 2 plus FLEX component 2;
- (4) USMLE (United States Medical Licensing Examination) step 1/NBME part II plus FLEX component 2;
- (5) USMLE steps 1 and 2 plus FLEX component 2;
- (6) NBME parts I, II, and III (U.S. and Canadian graduates only);
- (7) NBME part I/USMLE step 2 plus NBME part III (U.S. and Canadian graduates only);
- (8) USMLE step 1/NBME part II plus NBME part III (U.S. and Canadian graduates only);
- (9) NBME part I/USMLE step 2 plus USMLE step 3;
- (10) USMLE step 1/NBME part II plus USMLE step 3;
- (11) NBME parts I and II plus USMLE step 3;
- (12) FLEX component 1 plus USMLE step 3;
- (13) USMLE steps 1, 2, and 3;
- (14) Qualifying examination, Medical Council of Canada;
- (15) FLEX minimum weighted average of 75 achieved in one sitting (prior to 1985);
- (16) State board examinations administered before June 1, 1969.

(b) All parts of the examination of the LMCC (Licentiate of the Medical Council of Canada) shall qualify an applicant under section 2101 or section 2102 of the code to commence postgraduate training (clinical service) in a hospital in this state. In addition, the following written examinations are recognized by the division as qualifying international medical graduates to commence postgraduate training (clinical service) in a hospital in this state:

- (1) FLEX component 1;
- (2) NBME parts I and II;
- (3) NBME part I and USMLE step 2;
- (4) USMLE step 1 and NBME part II;
- (5) USMLE steps 1 and 2.

(c) If an applicant desires to take one of the examinations referred to in this section, he or she must personally make the arrangements to do so.

(d) Candidates shall comply with the procedures for examination established by the National Board or the USMLE examination committee, where applicable.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 851, 2005, 2096, 2101, 2102, 2103, 2151, 2170, 2176 and 2183, Business and Professions Code.

**HISTORY:**

1. Repealer and new subsection (a) filed 6-4-79; effective thirtieth day thereafter (Register 79, No. 23).
2. Amendment of subsection (a) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment of subsection (a) filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).
4. Amendment of subsection (a) and NOTE filed 6-5-91; operative 7-5-91 (Register 91, No. 31).
5. Amendment of subsections (a), (a)(1), (2), (3), (b), (c), and (d), filed 4-25-96; effective upon filing (Register 96, No.17).
6. Change without regulatory effect amending subsections (a)(15)-(16) and (c) filed 9-10-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 37).

**1329. Oral Examination.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2101, 2102, 2113, 2135, 2148, 2151, and 2428, Business and Professions Code.

**HISTORY:**

1. New section filed 8-23-79; effective thirtieth day thereafter (Register 79, No. 34).
2. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment filed 3-29-93; operative 4-28-93 (Register 93, No. 14).
4. Change without regulatory effect repealing section filed 7-26-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 31).

**1329.1. Acceptable Medical Instruction Required After Failure of Examination.**

(a) An applicant for physician and surgeon licensure who has failed a written examination shall complete the following additional training prior to participating in any further examinations in California:

(1) An applicant who has twice failed shall complete four (4) months of approved clinical training under the auspices of a medical school or an accredited postgraduate training program under the auspices of a medical school in the area of general medicine, which includes training in the areas of general surgery, pediatrics, obstetrics/gynecology or family practice prior to retaking the written examination.

(2) An applicant who has failed four times shall complete one (1) year of approved clinical training under the auspices of a medical school or an accredited postgraduate training program under the auspices of a medical school in the area of general medicine, which includes training in the areas of general surgery, pediatrics, obstetrics/gynecology or family practice prior to retaking the written examination.

(b) Prior to beginning the additional medical instruction required in subsection (a), the facility where the training will be completed shall submit a proposal to the division, on the applicant's behalf, for the division's review and approval. The proposal shall include a clear and concise description of the training the applicant will receive, the beginning and ending dates of the training, the level of instruction, and the name(s) of the instructor and program director. The required instruction shall not begin until the Division has approved the proposal.

NOTE: Authority cited: Sections 2018, Business and Professions Code. Reference: Sections 2005, 2170, 2176, 2185, Business and Professions Code.

**HISTORY:**

1. New Section filed 5-3-96; effective upon filing (Register 96, No. 18).
2. Change without regulatory effect amending section filed 7-26-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 31).

**1329.2. Written Examination Score Validity.**

The ten year period described in section 2184(b) of the code is not tolled by the filing of an application for licensure, but continues to run during the application process until such time as all other requirements for licensure have been satisfied.

NOTE: Authority cited: Sections 2018, Business and Professions Code. Reference: Sections 2005, 2170, 2176, 2177, 2184, Business and Professions Code.

**HISTORY:**

1. New section filed 5-6-96; effective upon filing (Register 96, No. 19).

**1330. Refresher Courses.**

A member of the division or an employee of the board shall not recommend to an applicant for examination the name of organizations offering coaching or refresher courses for medical licensing examinations.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2005, Business and Professions Code.

**HISTORY:**

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**Article 9. Certificates****1331. Form of Certificates.**

(a) The division shall adopt each form of certificate issued in compliance with Section 164 of the code. Each class of certificate shall bear a letter designating the class thereof, followed by a serial number to establish its identity and to effectuate a numerical record.

(b) All reciprocity certificates shall have a designating stamp thereon in the form prescribed by the division in compliance with Section 164 of the code.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 164, 2005, 2039, 2050 and 2153, Business and Professions Code.

**HISTORY:**

1. Repealer of subsection (c) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1332. Duplicate Certificates.**

A duplicate certificate may be issued to any licentiate who files the required fee therefor and submits an affidavit on a form provided by the division certifying to the loss or destruction of the original certificate. The duplicate certificate issued shall bear the same number and date of issuance as the original certificate and shall have the word "Duplicate" printed across the face thereof, together with the date the duplicate was issued. Any licensee whose name has been changed by court order or dissolution of marriage, the licensee shall attach a certified copy of the court record ordering the name change. At the time the change of name is requested, the original certificate of the licensee shall be returned to the office of the division so that an endorsement of the name change may be made on the division's records and a duplicate certificate issued. A photograph of the licensee taken within sixty (60) days must accompany the application and be affixed to the affidavit form provided by the division.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2432 and 2435, Business and Professions Code.

**HISTORY:**

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**Article 10. Reciprocity****1334. Reciprocity Applications.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2141 and 2144, Business and Professions Code.

**HISTORY:**

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1335. Endorsement of Credentials to Another State.**

(a) Any application filed by a licentiate of the board for certification or endorsement of credentials to the medical licensing authority of another state for the purpose of reciprocity licensure shall be accompanied by a photograph of the applicant taken within sixty (60) days. An affidavit form provided by the division shall be signed before a notary public by the applicant and affixed to the reverse side of the photograph.

(b) No endorsement shall be made unless the applicant has signed the required affidavits contained in the application and filed with the division the required endorsement fee.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2433 and 2435, Business and Professions Code.

**HISTORY:**

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**Article 11. Continuing Education****1336. Continuing Education Required.**

(a) Each physician is required to complete an average of at least 25 hours of approved continuing education during each calendar year.

(b) Each physician renewing his or her license under the provisions of Article 19 (commencing with Section 2420) of the Medical Practice Act may be required to submit proof satisfactory to the division of compliance with the provisions of this article a minimum of every four (4) years.

(c) Each physician in order to renew his or her license at each renewal thereof shall report progress towards compliance with the continuing education requirement.

(d) Any physician who cannot complete a minimum of 100 hours of approved continuing education during a four (4) year period shall be ineligible for renewal of his or her license under Section 1338 unless such physician applies for and obtains a waiver pursuant to Section 1339 below.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005, 2190 and 2420, Business and Professions Code.

**HISTORY:**

1. New Article 11 (Sections 1336-1339, not consecutive) filed 5-20-77 as an emergency; effective upon filing (Register 77, No. 21).
2. Certificate of Compliance filed 5-23-77 (Register 77, No. 21).
3. Amendment filed 11-17-78; effective thirtieth day thereafter (Register 78, No. 46).
4. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
5. Amendment of subsection (d) filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1336.5. CPR Training Required.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005 and 2190, Business and Professions Code.

**HISTORY:**

1. New section filed 6-4-80; effective thirtieth day thereafter (Register 80, No. 23). For history of former section, see Register 78, No. 46.
2. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment of subsection (c) filed 1-28-82; effective thirtieth day thereafter (Register 82, No. 5).
4. Amendment of subsection (a) filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).
5. Amendment of subsection (c) filed 9-23-83; effective thirtieth day thereafter (Register 83, No. 39).
6. Repealer filed 9-18-85; effective thirtieth day thereafter (Register 85, No. 38).

**1337. Approved Continuing Education Programs.**

(a) The following programs are approved by the division for continuing education credit:

(1) Programs which qualify for Category I credit from the California Medical Association or the American Medical Association;

(2) Programs which qualify for prescribed credit from the American Academy of Family Physicians;

(3) Programs offered by other organizations and institutions acceptable to the division.

(b) Only those courses and other educational activities that meet the requirements of Section 2190.1 of the code which are offered by these organizations shall be acceptable for credit under this section.

(c) A maximum of one-third of the required hours of continuing education may be satisfied by teaching or otherwise presenting a course or program approved under this section.

(d) Any physician who takes and passes a certifying or recertifying examination administered by a recognized specialty board shall be granted credit for four (4) consecutive years (100 hours) of continuing education credit for relicensure purposes. Such credit may be applied retroactively or prospectively.

(e) A maximum of sixty (60) hours of continuing education shall be granted to a physician for receiving the Physician's Recognition Award.

(f) A maximum of six (6) hours of continuing education shall be granted for each month that a physician is engaged in an approved postgraduate residency training program or approved clinical fellowship program accredited by the Accreditation Council for Graduate Medical Education (ACGME) for relicensure purposes.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2190, Business and Professions Code.

**HISTORY:**

1. Amendment filed 8-23-77; effective thirtieth day thereafter (Register 77, No. 35).
2. Amendment filed 5-29-81; effective thirtieth day thereafter (Register 81, No. 22).
3. New subsection (b) and subsection relettering filed 8-26-93; operative 9-27-93 (Register 93, No. 35).
4. Change without regulatory effect amending subsection (a)(2) filed 6-18-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 25).
5. Amendment to section adding subsections (e) and (f) filed 9-14-98; operative 9-14-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 38).

**1337.5. Criteria for Acceptability of Courses.**

(a) Those courses and programs referred to in Section 1337(a)(3) above shall meet the following criteria in order to be acceptable to the division on an hour-for-hour basis:

(1) Faculty-The course or program organizer(s) shall have a faculty appointment in a public university or state college or in a private postsecondary educational institution authorized or approved pursuant to Sections 94310 or 94311 of the Education Code. The appointment may be in disciplines other than medicine but directly related to the practice of medicine. The curriculum vitae of all faculty members and other organizers shall be kept on file.

(2) Rationale-The need for the course and how the need was determined shall be clearly stated and maintained on file.

(3) Course Content-The content of the course or program shall be directly related to patient care, community health or public health, preventive medicine, quality assurance or improvement, risk management, health facility standards, the legal aspects of clinical medicine, bioethics, professional ethics, or improvement of the physician-patient relationship.

(4) Educational Objectives-Each course or program shall clearly state educational objectives that can be realistically accomplished within the framework of the course.

(5) Method of Instruction-Teaching methods for each course or program shall be described, e.g., lecture, seminar, audio-visual, simulation, etc.

(6) Evaluation-Each course or program shall include an evaluation method which documents that educational objectives have been met, e.g., written examination or written evaluation by each participant.

(7) Attendance-Course organizers shall maintain a record of attendance of each participant.

(b) The division will not give prior approval to individual courses or programs; however, the division will randomly audit courses or programs submitted for credit in addition to any course or program for which a complaint is received. If an audit is made, course organizers will be asked to submit to the division:

(1) Organizer(s) faculty curriculum vitae;

(2) Rationale for course;

(3) Course content;

(4) Educational objectives;

(5) Teaching methods;

(6) Evidence of evaluation;

(7) Attendance records.

(c) Credit toward the required hours of continuing education will not be received for any course deemed unacceptable by the division after an audit has been made pursuant to this section.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2190, Business and Professions Code.

**HISTORY:**

1. New section filed 9-1-77; effective thirtieth day thereafter (Register 77, No. 36).
2. Amendment of subsection (a)(1) filed 4-11-80; effective thirtieth day thereafter (Register 80, No. 15).
3. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
4. Amendment of subsection (a)(3) filed 8-26-93; operative 9-27-93 (Register 93, No. 35).

**1338. Audit and Sanctions for Noncompliance.**

(a) The division shall audit once each year a random sample of physicians who have reported compliance with the continuing education requirement. No physician shall be subject to audit more than once every four (4) years. Those physicians selected for audit shall be required to document their compliance with the continuing education requirements of this article on a form provided by the division.

(b) Any physician who is found not to have completed the required number of hours of approved continuing education will be required to make up any deficiency during the next biennial renewal period. Such physician shall document to the division the completion of any deficient hours identified by audit. Any physician who fails to make up the deficient hours during the following renewal period shall be ineligible for renewal of his or her license to practice medicine until such time as the deficient hours of continuing education are documented to the division.

(c) It shall constitute unprofessional conduct for any physician to misrepresent his or her compliance with the provisions of this article.

(d) Any physician selected for audit who has been certified as complying with the continuing education requirements of this article by those organizations listed in Section 1337, subsections (a)(1) and (a)(2), will not be required to submit documentation or records of continuing education coursework received, but the division may obtain such records directly from the certifying organizations.

(e) The division requires that each physician retain records for a minimum of four years of all continuing education programs attended which indicate the title of the course or program attended, dates of attendance, the length of the course or program, the sponsoring organization and the accrediting organization, if any, which may be needed in the event of an audit by the division.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2005 and 2190, Business and Professions Code.

**HISTORY:**

1. Amendment filed 9-1-77; effective thirtieth day thereafter (Register 77, No. 36).
2. Repealer and new section filed 11-17-78; effective thirtieth day thereafter (Register 78, No. 46).
3. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
4. Amendment of subsections (b) and (e) filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1339. Waiver of Requirement.**

(a) The division, in its discretion may exempt from the continuing education requirements, any licensee who for reasons of retirement, health, military service, or undue hardship cannot meet those requirements. Applications for waivers shall be submitted on a provided form to the division for its consideration.

(b) Any physician so exempted by reason of retirement may not routinely engage in the practice of medicine and his or her medical practice shall be restricted as follows:

(1) Any examining, treating and prescribing is limited to 20 patient visits annually.

(2) Prescribing only Schedule IV and V controlled substances unless otherwise authorized by the Division of Licensing to prescribe from other schedules; the physician's Drug Enforcement Administration (DEA) certificate shall reflect these restrictions.

(3) Irrespective of age, any income derived from the practice of medicine shall not exceed the net annual income allowed for recipients of social security benefits.

(c) Any physician who submits an application for a waiver which is denied by the division, shall be ineligible for renewal of his or her license to practice medicine unless such physician complies with the provisions of Section 1338.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2190, Business and Professions Code.

**HISTORY:**

1. Amendment of subsection (a) filed 8-23-77; effective thirtieth day thereafter (Register 77, No. 35).
2. Amendment of subsection (b) filed 11-17-78; effective thirtieth day thereafter (Register 78, No. 46).
3. Amendment filed 6-20-79; effective thirtieth day thereafter (Register 79, No. 25).
4. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
5. Change without regulatory effect amending subsection (b)(2) filed 8-16-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 33).

**1339.5. Inactive Licensure.**

(a) "Board" as used in Section 701 of the Code means the Division of Licensing.

(b) Any physician and surgeon desiring (1) an inactive certificate or (2) to restore his or her inactive certificate to an active status shall submit an application to the division on a form provided by it. The applicant need not submit his or her certificate or a copy thereof to the division with the application.

(c) In order to restore an inactive certificate to active status, the physician shall have completed a minimum of fifty (50) hours of continuing education within the last two (2) years in compliance with Article 11 (commencing with Section 1336).

(d) The inactive status of a certificate holder shall not deprive the Division of Medical Quality of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the certificate or otherwise taking disciplinary action against the licensee on any such ground.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 701 and 704, Business and Professions Code.

**HISTORY:**

1. Renumbering of Section 131 to Section 1339.5 filed 5-14-81; effective thirtieth day thereafter (Register 81, No. 20). For history of former Section 1310, See Register 78, No. 19.
2. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**Article 12. Salaried Employment****1340. Conditions of Employment.**

(a) Any licensed charitable and eleemosynary institution, foundation or clinic may employ physicians and surgeons so long as such an institution, foundation or clinic does not require a charge for professional medical services rendered patients.

(b) Such employment does not require prior approval of the division.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2400 and 2401, Business and Professions Code.  
HISTORY:

1. Amendment of subsection (a) filed 4-11-80; effective thirtieth day thereafter (Register 80, No. 15).
2. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1340.5. Employment of Out-of-State Physicians by State and County General Hospitals.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2072 and 2073, Business and Professions Code.  
HISTORY:

1. New section filed 3-23-79; effective thirtieth day thereafter (Register 79, No. 13).
2. Amendment of subsections (d) and (e) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Renumbering and amendment of Section 1340.5 to Section 1341 filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1341. Employment of Out-of-State Physicians by State and County General Hospitals.**

Any state institution or county general hospital which employs or appoints to the medical staff a physician who is not licensed in this state shall meet the following conditions in order to employ or appoint such a physician:

(a) The institution or hospital shall register each such physician with the division.

(b) The director of each such institution or hospital shall certify to the division that physicians licensed in this state cannot be recruited.

(c) All registrations and certifications shall be on a form provided by the division.

(d) The physician and institution or hospital otherwise comply with the provisions of Sections 2072 and 2073 of the code, as the case may be. Failure to comply with these sections or this regulation shall constitute grounds for revocation of the registration provided for herein.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2072 and 2073, Business and Professions Code.  
HISTORY:

1. Renumbering and amendment of former Section 1341 to Section 1342 and renumbering and amendment of former Section 1340.5 to Section 1341 filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39). For HISTORY of former Section 1341, see Register 81, No. 32.

**Article 13. Professional Corporations****1341.2. Office for Filing.**

NOTE: Authority cited: Sections 2018 and 2412, Business and Professions Code.

HISTORY:

1. Repealer filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1342. Citation.**

These regulations may be cited and referred to as the "Professional Corporation Regulations."

NOTE: Authority and reference cited: Sections 2018 and 2412, Business and Professions Code.

HISTORY:

1. Repealer of former Section 1342 and renumbering and amendment of former Section 1341 to Section 1342 filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39). For HISTORY of former Section 1342, see Registers 81, No. 32 and 80, No. 15.

**1342.5. Approval and Issuance of Certificates.**

NOTE: Authority cited: Sections 2018 and 2412, Business and Professions Code.

HISTORY:

1. Repealer filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1343. Requirements for Professional Corporations.**

A professional corporation shall comply with the following provisions:

(a) The corporation is organized and exists pursuant to the general corporation law and is a professional corporation within the meaning of the Moscone-Knox Professional Corporations Act (Corporations Code Section 13400 et seq.).

(b) Each shareholder, director or officer (except as provided in Section 13403 of the Corporations Code and Section 2408 of the code) holds a valid physician's and surgeon's certificate or certificate to practice podiatric medicine, as the case may be, provided that, a licensed podiatrist, psychologist, optometrist, physician's assistant, clinical social worker, marriage, family and child counselor, chiropractor or registered nurse may be a shareholder, director or officer of a medical corporation so long as such licensed persons own no more than 49% of the total shares issued by the medical corporation and the number of licensed persons owning shares in the medical corporation does not exceed the number of physicians owning shares in such a corporation, and a licensed physician may be a shareholder, director or officer of a podiatry corporation so long as such physician owns no more than 49% of the total shares issued by the podiatry corporation and the number of licensed physicians owning shares in the podiatry corporation does not exceed the number of podiatrists owning shares in such a corporation. A physician, psychologist, optometrist and registered nurse may also be a shareholder, director or officer in a podiatry corporation subject to the same numerical restrictions.

(c) Each professional employee of the corporation who will practice medicine, podiatry, psychology, optometry, clinical social work, marriage, family and child counseling, chiropractic or nursing, whether or not a director, officer or shareholder, holds a valid license.

(d) A physician and surgeon or podiatrist may be a shareholder, officer or director in more than one professional corporation.

NOTE: Authority cited: Sections 2018 and 2412, Business and Professions Code. Reference: Sections 2406 and 2408, Business and Professions Code; Sections 13401, 13401.5, 13403, 13405, 13406 and 13407, Corporations Code.

HISTORY:

1. Amendment of subsections (b) and (d) filed 5-10-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment of subsections (b) and (d) filed 4-11-80; effective thirtieth day thereafter (Register 80, No. 15).
3. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
4. Amendment filed 2-16-84; effective thirtieth day thereafter (Register 84 No. 7).
5. Change without regulatory effect amending subsections (b) and (c) filed 3-2-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 10).

**1344. Namestyle.**

(a) Unless a fictitious name permit is obtained pursuant to Section 2415 of the code, the name of a professional corporation shall be restricted to the name or surname of one or more of the present prospective or former shareholders who are physicians or podiatrists, as the case may be, for a medical or podiatry corporation. The use of such name in conjunction with one of the words or abbreviations listed in subsection (b) below shall not create a fictitious name for purpose of Section 2285 of the code.

(b) When the applicant uses any fictitious, false or assumed name or any name other than the name or surname of one or more of the present, prospective or former shareholders, or any other words or names in addition to those of the shareholders, it shall obtain a permit pursuant to Section 2415 of the code. The fee required in Section 1352 shall accompany the fictitious name permit application.

(c) Except as provided in Section 1350.3, the name of the corporation and any name or names under which it may render professional services shall include words or abbreviations denoting corporate existence limited to one of the following: "Medical Corporation," "Medical Corp.," "Podiatry Corporation," "Podiatry Corp.," "Professional Corporation," "Prof. Corp.," "Corporation," "Corp.," "Incorporated" or "Inc."

(d) A professional corporation with a majority of physicians and surgeons as shareholders, officers and directors shall not use the designations "Podiatry Corporation" or "Podiatry Corp." A corporation with a majority of podiatrists as shareholders, officers and directors shall not use the designation "Medical Corporation" or "Medical Corp.."

(e) If the names or surnames used in the name of a professional corporation do not include the words "Medical Doctor," "M.D.," "Podiatrist," "Doctor of Podiatric Medicine" or abbreviation(s) "M.D." or "D.P.M.," as the case may be, then the word(s) or abbreviation(s) denoting corporate existence shall indicate that the corporation is a medical or podiatry corporation.

NOTE: Authority cited: Sections 2018 and 2412, Business and Professions Code. Reference: Sections 2285, 2407 and 2415, Business and Professions Code; and Section 13409, Corporations Code.

**HISTORY:**

1. Amendment of subsection (c) filed 5-10-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment of subsection (a) filed 4-11-80; effective thirtieth day thereafter (Register 80, No. 15).
3. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
4. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1345. Shares: Ownership and Transfer.**

(a) Where there are two or more shareholders in a professional corporation and one of the shareholders:

(1) Dies; or

(2) Becomes a disqualified person as defined in Section 13401(d) of the Corporations Code. His or her shares shall be sold and transferred to the corporation, its shareholders or other eligible licensed persons on such terms as are agreed upon. Such sale or transfer shall not be later than six (6) months after any such death and not later than ninety (90) days after the date the shareholder becomes a disqualified person. The requirements of this subsection of this section shall be set forth in the professional corporation's articles of incorporation or bylaws.

(b) A corporation and its shareholders may, but need not, agree that shares sold to it by a person who becomes a disqualified person may be resold to such person if and when he or she again becomes an eligible shareholder.

(c) The share certificates of a professional corporation shall contain an appropriate legend setting forth the restrictions of subsection (b), where applicable.

(d) Nothing in these regulations shall be construed to prohibit a professional corporation from owning shares in a nonprofessional corporation.

NOTE: Authority cited: Sections 2018 and 2412, Business and Professions Code. Reference: Sections 2409 and 2412, Business and Professions Code; and Sections 13401, 13403, 13406 and 13407, Corporations Code.

**HISTORY:**

1. Amendment of subsections (b) and (e) filed 5-10-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment of subsection (b)(2) filed 6-4-79; effective thirtieth day thereafter (Register 79, No. 23).
3. Amendment of subsection (e) filed 4-11-80; effective thirtieth day thereafter (Register 80, No. 15).
4. Amendment of subsection (f) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
5. Amendment filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1345.5. Certificates of Registration: Continuing Validity and Reports.**

NOTE: Authority cited: Sections 2018 and 2412, Business and Professions Code.

HISTORY:

1. Amendment filed 6-4-79; effective thirtieth day thereafter (Register 79, No. 23).
2. Repealer filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1346. Security for Claims Against a Professional Corporation.**

NOTE: Authority cited: Sections 2018 and 2412, Business and Professions Code. Reference: Section 2412, Business and Professions Code.

HISTORY:

1. Amendment of subsection (a) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**1347. Corporate Activities.**

(a) A professional corporation may perform any act authorized in its articles of incorporation or bylaws so long as that act is not in conflict with or prohibited by the Medical Practice Act, and where applicable the Psychology Licensing Law, the Optometry law, Physician Assistants Practice Act, the social worker licensing law and the marriage, family and child counselor licensing law or the Nursing Practice Act in the case of a corporation which has a licensed psychologist, optometrist or registered nurse as a shareholder, director or officer, or the regulations adopted pursuant thereto.

(b) A professional medical or podiatry corporation may enter into partnership agreements with other physicians and surgeons or podiatrists, as the case may be, practicing individually or in a group or with other medical or podiatry corporations.

NOTE: Authority cited: Sections 2018 and 2412, Business and Professions Code. Reference: Sections 2412 and 2416, Business and Professions Code.

HISTORY:

1. Amendment of subsection (a) filed 5-10-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment of subsection (a) filed 4-11-80; effective thirtieth day Register 80, No. 15).
3. Amendment of subsection (a) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
4. Amendment of subsection (a) filed 2-16-84; effective thirtieth day thereafter (Register 84, No. 7).
5. Change without regulatory effect amending subsection (a) filed 9-9-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 51).

**1348. Trusts.**

The restrictions on the ownership of the shares of professional corporations shall apply to both the legal and equitable title to such shares.

NOTE: Authority cited: Sections 2018 and 2412, Business and Professions Code. Reference: Sections 13406 and 13407, Business and Professions Code.

HISTORY:

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1349. Partnerships.**

Nothing in Section 2416 of the code or this article shall be construed to authorize a partnership agreement in which fees are combined or shared between a physician and surgeon(s) and a podiatrist(s) or any other licensed professional, not a physician and surgeon.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2285, 2415 and 17500, Business and Professions Code.

HISTORY:

1. Renumbering of former Section 1350.4 to Section 1349 filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39). For history of former Section 1349, see Register 81, No. 32.

**Article 14. Fictitious and Group Names****1350. Application.**

(a) Applications for a fictitious name permit shall be submitted on a form provided by the division containing such information as is required therein.

(b) The application shall be signed by a licensed person who is a member of the group or clinic or by an officer of the professional corporation, as the case may be, requesting the use of such name.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2285 and 2415, Business and Professions Code.

**HISTORY:**

1. Repealer of former Section 1350 and renumbering of former Section 1350.1 to Section 1350 filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39). For prior history, see Registers 81, No. 32 and 79, No. 23.

**1350.1. Request for a Duplicate Fictitious Name Permit.**

(a) The holder of a current fictitious name permit may apply to the division for a duplicate of that fictitious name permit if the fictitious name permit has been lost, stolen or destroyed. The request for a duplicate fictitious name permit shall contain the following information:

- (1) The type of entity to whom the fictitious name permit was issued;
- (2) The name, address and telephone number of the permit holder;
- (3) The fictitious name permit number; and
- (4) The reason for requesting the duplicate fictitious name permit.

NOTE: Authority cited: Sections 2018 and 2415, Business and Professions Code. Reference: Sections 2415 and 2432, Business and Professions Code.

**HISTORY:**

1. New section filed 1-8-99; operative 1-8-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 2).

**1350.2. Approval and Issuance of Permits.**

(a) The division shall within a reasonable time after an application has been filed issue a fictitious name permit or refuse to approve the application and notify the applicant of the reasons therefor.

(b) All fictitious name permits shall be issued and made effective after review and approval of the application by the division; provided that, for good cause shown, the division may issue a permit retroactively effective the date on which the application and/or initial permit fee are filed, whichever last occurs. A fictitious name permit shall be dated when it is issued and made effective.

(c) No licensed person shall render professional services using a fictitious, false or assumed name or any name other than his or her own unless and until a fictitious name permit has been issued by the division.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2285 and 2415, Business and Professions Code.

**HISTORY:**

1. New NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1350.3. Namestyle.**

(a) Any fictitious name used shall contain one of the following designations: "Medical Group," "Medical Clinic," "Podiatrist Group," "Podiatrists Clinic," "Podiatry Group" or "Podiatry Clinic." Such designations shall be contiguous in the namestyle and not separated by intervening words. This subsection also applies to those applicants who are sole practitioners.

(b) A group or clinic containing physicians and surgeons shall not use a designation containing the word "Podiatry" or "Podiatrists." A group or clinic containing podiatrists only shall not use a designation containing the word "Medical."

(c) A group or clinic containing both a corporate and noncorporate entity or a partnership of corporations shall not use wording or abbreviations denoting corporate existence. When a professional corporation is the applicant, it shall use in its fictitious namestyle one of the word(s) or abbreviation(s) denoting corporate existence contained in Section 1344(b) of these regulations.

(d) The division shall not issue a fictitious name permit for a name-style which

(1) May be a violation of Section 17500 of the code;

(2) Is so similar to a name currently authorized as to be deceptive, misleading or subject to confusion.

(e) The use of word(s) or abbreviation(s) following a licensed person's name denoting affiliation with a professional medical or podiatric society or association such as, but not limited to, F.A.C.S., F.A.C.P., etc. shall not create a fictitious name for purposes of Section 2285 of the code ; however, the use of any word(s) or abbreviations(s) which denotes a particular specialty in medical practice which is advertised or disseminated to the public in connection with that practice shall require a fictitious name permit.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2285, 2415, and 17500, Business and Professions Code.

**HISTORY:**

1. Amendment of subsections (c), (d)(3) and (e) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment of subsection (d) filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).
3. Amendment of subsection (d)(2) filed 5-14-97; effective thirtieth day thereafter (Register 97, No. 20).

**1350.4. Partnerships.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2416, Business and Professions Code.

**HISTORY:**

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Renumbering of Section 1350.4 to Section 1349 filed 9-21-83; effective thirtieth day thereafter (Register 83, No. 39).

**Article 15. Fees \***

\* - For former text of Article 15, see Article 5, Subchapter 3.

**1351. Examination Fees.**

(a) The examination and reexamination fee for the Special Purpose Examination (SPEX) shall be \$550.

(b) The examination and reexamination fee for the United States Medical Licensing Examination (USMLE) Step 3 shall be \$400. For the USMLE Step 3 examination administered on or after May 1, 1998, the examination and reexamination fee shall be \$455.

NOTE: Authority cited: Sections 2018 and 2436, Business and Professions Code. Reference: Section 2435, Business and Professions Code.

**HISTORY:**

1. Amendment of subsection (a) filed 12-13-77; effective thirtieth day thereafter (Register 77, No. 51).
2. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment of subsection (c) filed 3-5-82; effective thirtieth day thereafter (Register 82, No. 10).
4. Amendment filed 6-2-83; effective thirtieth day thereafter (Register 83, No. 23).
5. Amendment filed 8-30-84; effective thirtieth day thereafter (Register 84, No. 35).
6. Amendment filed 12-21-87; operative 1-20-88 (Register 88, No. 1).
7. Amendment filed 4-5-91; operative 5-5-91 (Register 91, No. 17).
8. Amendment to section filed 4-24-96; effective upon filing (Register 96, No. 17).
9. Amendment to subsection(b) filed 1-2-97; effective upon filing (Register 97, No. 1).
10. Amendment of subsection (b) filed 10-27-97 as an emergency; operative 10-27-97 (Register 97, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 2-26-98.
11. Certificate of Compliance transmitted to OAL 12-11-97, filed 1-26-98 (Register 98, No. 5).
12. Change without regulatory effect repealing subsection (c) filed 7-26-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 31).

**1351.5. Initial License Fee.**

The initial license fee shall be \$500 for licensing periods beginning on or after January 1, 1993. The initial fee for licensure as a physician and surgeon or for a special faculty permit shall be \$600 for licensing periods beginning on or after January 1, 1994.

NOTE: Authority cited: Sections 2018, 2168.4, and 2436, Business and Professions Code. Reference: Sections 2168.4 and 2435, Business and Professions Code.

**HISTORY:**

1. Amendment filed 10-30-89 as an emergency; operative 2-1-90 (Register 89, No. 45). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 2-27-90. For prior history, see Register 89, No. 7.
2. Certificate of Compliance as to 10-30-89 order including amendment transmitted to OAL 2-22-90 and filed 3-9-90 (Register 90, No. 11).
3. Amendment filed 8-1-91; operative 8-1-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 48).
4. Amendment filed 5-20-92; operative 6-19-92 (Register 92, No. 24).
5. Amendment filed 9-30-92 as an emergency; operative 9-30-92 (Register 92, No. 40). A Certificate of Compliance must be transmitted to OAL 1-28-93 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 9-30-92 order transmitted to OAL 12-21-92 and filed 2-2-93 (Register 93, No. 6).
7. Amendment filed 12-3-93 as an emergency; operative 1-1-94 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 4-30-94 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 12-3-93 transmitted to OAL 3-14-94 and filed 4-25-94 (Register 94, No. 17).
9. Amendment of section and Note filed 1-8-99; effective thirtieth day thereafter (Register 99, No. 2).

**1351.6. Expiration Date of Initial Licenses.**

The expiration date of an initial license when issued shall be the last day of the second birth month of the licensee after the date the license is issued.

NOTE: Authority cited: Sections 2018 and 2436, Business and Professions Code. Reference: Sections 2423 and 2435, Business and Professions Code.

**HISTORY:**

1. New section filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Editorial correction of printing error restoring proper section placement (Register 92, No. 40).

**1352. Renewal Fee.**

The biennial renewal fee shall be \$600 for licensing periods beginning on or after January 1, 1994. The biennial renewal fee for licenses which expire between March 1, 1995 through February 28, 1997 shall be \$575. The biennial renewal fee for licenses or special faculty permits which expire after February 28, 1997 shall be \$600.

NOTE: Authority cited: Sections 2018, 2168.4 and 2436, Business and Professions Code. Reference: Sections 2168.4 and 2435, Business and Professions Code.

## HISTORY:

1. Amendment filed 10-30-89 as an emergency; operative 2-1-90 (Register 89, No. 45). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 2-27-90. For prior history, see Register 89, No. 7.
2. Certificate of Compliance as to 10-30-89 order including amendment transmitted to OAL 2-22-90 and filed 3-9-90 (Register 90, No. 11).
3. Editorial correction of text (Register 91, No. 30).
4. Amendment filed 8-1-91; operative 8-1-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 48).
5. Amendment filed 5-20-92; operative 6-19-92 (Register 92, No. 24).
6. Amendment filed 9-30-92 as an emergency; operative 9-30-92 (Register 92, No. 40). A Certificate of Compliance must be transmitted to OAL 1-28-93 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 9-30-92 order transmitted to OAL 2-21-92 and filed 2-2-93 (Register 93, No. 6).
8. Amendment filed 12-3-93 as an emergency; operative 1-1-94 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 4-30-94 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 12-3-93 transmitted to OAL 3-14-94 and filed 4-25-94 (Register 94, No. 17).
10. Amendment filed 12-29-94; operative 1-30-95 (Register 94, No. 52).
11. Amendment of section and Note filed 1-8-99; effective thirtieth day thereafter (Register 99, No. 2).

**1352.1. Conversion Renewal Schedule.**

NOTE: Authority cited: Section 2018, Business and Professions Code.

## HISTORY:

1. New section filed 2-15-78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 7).
2. Repealer filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1352.2. Penalty Fee.**

Pursuant to Section 2424 of the code, any physician who does not renew his or her expired license or special faculty permit within 90 days of its date of expiration shall pay a penalty fee equal to 50% of the biennial renewal fee currently in effect.

NOTE: Authority cited: Sections 2018, 2168.4, and 2436, Business and Professions Code. Reference: Sections 2168.4, 2424 and 2435, Business and Professions Code.

## HISTORY:

1. New section filed 2-15-78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 7).
2. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment filed 3-5-82; effective thirtieth day thereafter (Register 82, No. 10).
4. Amendment of section and Note filed 1-8-99; effective thirtieth day thereafter (Register 99, No. 2).

**1353. Fictitious Name Permit Duplicate Fee.**

The fee for a duplicate fictitious name permit shall be \$30.

NOTE: Authority cited: Sections 2018, 2415 and 2443, Business and Professions Code. Reference: Sections 2415 and 2443, Business and Professions Code.

## HISTORY:

1. New section filed 1-8-99; operative 1-8-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 2). For prior history see Register 95, No. 46.

**1354. Fee for Specialty Board Approval.**

Each specialty board or association applying for approval from the Division of Licensing under section 651 of the code and section 1363.5 of these regulations shall pay a fee of \$4,030.

NOTE: Authority cited: Sections 651 and 2018, Business and Professions Code. Reference: Section 651, Business and Professions Code.

## HISTORY:

1. New section filed 3-9-94; operative 4-8-94 (Register 94, No. 10). For prior history, see Register 81, No. 32.
2. Amendment to section filed 2-3-99; effective thirtieth day thereafter (Register 99, No. 6).

**Article 16. Information Disclosure****1354.5. Requirements for Information Disclosure.**

The following information, if known, will be disclosed upon request regarding any physician and surgeon licensed in California:

(a) Current status of a license, issuance and expiration date of a license, medical school of graduation and date of graduation.

(b) Any public document filed against any physician and surgeon, and any disposition thereof, including but not limited to, accusations, decisions, temporary restraining orders, interim suspension orders, citations, and public letters of reprimand. Accusations which have been filed and later withdrawn shall be retained in the board's files for a period of one year after the accusation was withdrawn.

(c) Medical malpractice judgments in excess of \$30,000 reported to the board on or after January 1, 1993, including the amount of the judgment, the date of the judgment, the court of jurisdiction, the case number, a brief summary of the circumstances as provided by the court, and an appropriate disclaimer, including but not limited to, the accuracy of the information provided.

(d) Discipline imposed by another state or the federal government reported to the board on or after January 1, 1991, including the discipline imposed, the date of the discipline, the state where the discipline was imposed, and an appropriate disclaimer, including but not limited to, the accuracy of the information provided.

(e) California felony convictions reported to the board on or after January 1, 1991, including the nature of the conviction, the date of conviction, the sentence, if known, the court of jurisdiction, and an appropriate disclaimer, including but not limited to, the accuracy of the information provided.

NOTE: Authority cited: Sections 803, 803.1, and 2018, Business and Professions Code. Reference: Sections 803 and 803.1, Business and Professions Code.

**HISTORY:**

1. New section filed 10-26-95; operative 11-25-95 (Register 95, No. 43).

**Chapter 2. Division of Medical Quality****Article 1. General Provisions****1355. Administration.**

The Division of Medical Quality shall administer the provisions of this chapter.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2004, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1355.1. Location of Office.**

The principal office of the Division of Medical Quality of the Medical Board of California is located at 1430 Howe Avenue, Sacramento, California 95825.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2019, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Change without regulatory effect amending section filed 9-9-91 pursuant to section 100, title 1 California Code of Regulations (Register 91, No. 51).

**1355.2. Tenses, Gender and Number.**

NOTE: Authority and reference cited: Section 2018, Business and Professions Code.

HISTORY:

1. New NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

**1355.3. Definitions.**

Unless the context otherwise requires, for the purpose of the regulations contained in this chapter,

- (a) "Board" means the Medical Board of California,
- (b) "Division" means the Division of Medical Quality, and
- (c) "Code" means the Business and Professions Code.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2004, 2018 and 2019, Business and Professions Code.

HISTORY:

1. New NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).
3. Change without regulatory effect amending subsection (a) filed 9-9-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 51).

**1355.4. Continuation of Existing Regulations.**

NOTE: Authority and reference cited: Section 2018, Business and Professions Code.

HISTORY:

1. New NOTE: filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

**1356. Delegation of Functions.**

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act Section 11500, et seq. of the Government Code, the division delegates and confers upon the executive director of the board, the assistant executive director, the medical consultant, chief of enforcement, or his or her designee, all functions necessary to the dispatch of business of the division in connection with investigative and administrative proceedings under the jurisdiction of the division.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2220, 2224 and 2230, Business and Professions Code; and Section 11500, Government Code.

HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).
3. Change without regulatory effect amending section filed 3-21-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No.12).
4. Change without regulatory affect to amend section filed 2-26-01 pursuant to title 1, section 100 of the Cal. Code Reg (Register 2001, No. 10).

**1356.1. Delegation to Medical Consultants.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2004, 2224, 2225, 2226, 2282, and 2283, Business and Professions Code.

## HISTORY:

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Repealer filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

**1356.2. Statute of Limitations–Discovery of Act.**

(a) For purposes of Section 2230.5 of the code, the word “discovers” means, with respect to each act or omission alleged as the ground for disciplinary action:

- (1) the date the board received a complaint or report describing the act or omission.
- (2) the date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the ground for disciplinary action against the same individual.

(b) For purposes of this section:

(1) “Complaint” means a written complaint from the public or a written complaint generated by board staff that names a particular physician.

(2) “Report” means any written report required under the code to be filed with the board, but does not include a notice filed under Code of Civil Procedure Section 364.1.

(c) A notice filed under Code of Civil Procedure Section 364.1 shall be retained, pursuant to that code section, in a potential investigation file. If a complaint or report on the same act or omission is subsequently received by the board, the date the board discovers the act or omission alleged as the ground for disciplinary action is the date the board receives that complaint or report.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2230.5, Business and Professions Code.

## HISTORY:

1. New section filed 12-21-98 as an emergency; operative 12-21-98 (Register 98, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-20-99 or emergency language will be repealed by operation of law on the following day. For prior history see Register 83, No. 33.
1. Certificate of Compliance, as to 12-21-98 order including additional amendments, transmitted to OAL 4-20-99, filed 5-27-99 (Register 99, No. 22).

**1356.3. Secure Area - Storage of Drugs in Physicians’ Offices.**

For purposes of section 4172 of the code, the phrase “area which is secure” means a locked storage area within a physician’s office. The area shall be secure at all times. The keys to the locked storage area shall be available only to staff authorized by the physician to have access thereto.

NOTE: Authority cited: Sections 2018 and 4172, Business and Professions Code. Reference: Section 4172, Business and Professions Code.

## HISTORY:

1. New Section filed 8-8-96; effective thirtieth day thereafter (Register 96, No.32).
2. Change without regulatory effect amending section filed 4-13-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 16).

**1356.4. Outpatient Surgery - Reporting of Death.**

The reporting of a patient death that is required by Section 2240(a) of the code shall include the following information:

(a) The patients' full name, address, date of birth, social security number, medical record number, and the physical location of the medical record.

(b) The full name, license number, practice specialty and the American Board of Medical Specialties certification or certification by a board-approved specialty board, if any, of the physician who performed the surgery.

(c) The date of the surgery; the name and address of the outpatient setting where the surgery was performed; and the circumstances of the patient's death.

(d) The full name of each entity which licenses, certifies or accredits the outpatient setting where the surgery was performed and the types of outpatient procedures performed at that setting.

(e) The name and address of the hospital or emergency center to which the patient was transferred or admitted.

(f) The date of the report and the full name of the person who completed the report.

NOTE: Authority cited: Sections 2018, Business and Professions Code. Reference: Section 2240, Business and Professions Code.

HISTORY:

1. New Section filed 10-31-00; operative 11-30-00 (Register 2000, No. 45).

**1356.5. Filing Date**

An accusation or petition to revoke probation shall be deemed "filed" on the date it is signed by the executive director or other person described in section 1356.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2230.5, Business and Professions Code.

HISTORY:

1. New section filed 5-21-2002; operative 6-20-2002 (Register 2002, No. 21).

**§1356.6. Liposuction Extraction and Postoperative Care Standards.**

(a) A liposuction procedure that is performed under general anesthesia or intravenous sedation or that results in the extraction of 5,000 or more cubic centimeters of total aspirate shall be performed in a general acute-care hospital or in a setting specified in Health and Safety Code Section 1248.1.

(b) The following standards apply to any liposuction procedure not required by subsection (a) to be performed in a general acute-care hospital or a setting specified in Health and Safety Code Section 1248.1:

(1) Intravenous Access and Emergency Plan. Intravenous access shall be available for procedures that result in the extraction of less than 2,000 cubic centimeters of total aspirate and shall be required for procedures that result in the extraction of 2,000 or more cubic centimeters of total aspirate. There shall be a written detailed plan for handling medical emergencies and all staff shall be informed of that plan. The physician shall ensure that trained personnel, together with adequate and appropriate equipment, oxygen, and medication, are onsite and available to handle the procedure being performed and any medical emergency that may arise in connection with that procedure. The physician shall either have admitting privileges at a local general acute-care hospital or have a written transfer agreement with such a hospital or with a licensed physician who has admitting privileges at such a hospital.

(2) Anesthesia. Anesthesia shall be provided by a qualified licensed practitioner. The physician who is performing the procedure shall not also administer or maintain the anesthesia or sedation unless a licensed person certified in advanced cardiac life support is present and is monitoring the patient.

(3) Monitoring. The following monitoring shall be available for volumes greater than 150 and less than 2,000 cubic centimeters of total aspirate and shall be required for volumes between 2,000 and 5,000 cubic centimeters of total aspirate:

- (A) Pulse oximeter
- (B) Blood pressure (by manual or automatic means)
- (C) Fluid loss and replacement monitoring and recording
- (D) Electrocardiogram

**1356.6 - Continued**

(4) Records. Records shall be maintained in the manner necessary to meet the standard of practice and shall include sufficient information to determine the quantities of drugs and fluids infused and the volume of fat, fluid and supranatant extracted and the nature and duration of any other surgical procedures performed during the same session as the liposuction procedure.(5) Discharge and Postoperative-care Standards.

(A) A patient who undergoes any liposuction procedure, regardless of the amount of total aspirate extracted, shall not be discharged from professionally supervised care unless the patient meets the discharge criteria described in either the Aldrete Scale or the White Scale. Until the patient is discharged, at least one staff person who holds a current certification in advanced cardiac life support shall be present in the facility.

(B) The patient shall only be discharged to a responsible adult capable of understanding postoperative instructions.

NOTE: Authority cited: Sections 2018 and 2259.7, Business and Professions Code. Reference: Section 2259.7, Business and Professions Code.

**HISTORY:**

1. New section filed 1-21-2003; operative 2-20-2003 (Register 2003, No. 4)

**Article 2. Impaired Physician Program****1357. Definitions.**

As used in this article.

(a) "Program" means the impaired physician diversion program authorized pursuant to Article 14 (commencing with Section 2340) of the Medical Practice Act.

(b) "Committee" means a diversion evaluation committee.

NOTE: Authority and reference cited: Section 2018, Business and Professions Code.

**HISTORY:**

1. New Article 2 (Sections 1357-1357.8, not consecutive) filed 7-3-80; effective thirtieth day thereafter (Register 80, No. 27).
2. Amendment of subsection (a), and repealer of subsection (c) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32.)

**1357.1. Criteria for Admission.**

An applicant shall meet the following criteria for admission to the program:

(a) The applicant shall be a licensed physician or be otherwise legally authorized to practice medicine in this state.

(b) The applicant is found to abuse dangerous drugs or alcoholic beverages, or suffer from mental or physical disability in a manner which may affect the physician's ability to practice medicine safely or competently.

(c) The applicant shall have voluntarily requested admission to the program.

(d) The applicant agrees to undertake any medical or psychiatric examinations ordered to evaluate the application for participation in the program.

(e) The applicant cooperates with the program by providing medical information, disclosure authorizations and releases of liability as may be necessary for participation in the program.

(f) The applicant agrees in writing to cooperate with all elements of the diversion agreement.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2350, Business and Professions Code.

**HISTORY:**

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment to subsection (g) filed 10-05-00; effective thirtieth day thereafter (Register 2000, No. 42).
3. Editorial correction implementing printing of 10-5-2000 order (Register 2001, No. 42).
4. Repealer of subsection (b) and subsection relettering filed 10-19-2001; operative 11-18-2001 (Register 2001, No. 43).

**1357.2. Procedure for Review of Applicants.**

(a) Program staff and a committee, shall act as consultants to the program manager for the purpose of interviewing each applicant who requests admission to the program.

(b) The committee shall recommend such medical and psychiatric examinations as may be necessary to determine the applicant's eligibility for the program and request such other information, authorizations, and releases necessary for the program.

(c) The committee shall make a recommendation to the program manager whether the applicant should be admitted to the program.

(d) The program manager's decision on admission of an applicant to the program shall be final.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2350, Business and Professions Code.

**HISTORY:**

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Change without regulatory effect amending subsection (a) filed 3-21-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 12).
3. Change without regulatory effect amending subsection (c) filed 11-24-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 48).
4. Amendment filed 10-19-2001; operative 11-18-2001 (Register 2001, No. 43).

**1357.3. Evaluating Physicians.**

A physician selected by the program manager or his/her designee to conduct medical and psychiatric evaluations of an applicant shall be a licensed physician who is competent in his/her field of specialty.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2350, Business and Professions Code.

## HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment of section heading and section filed 10-19-2001; operative 11-18-2001 (Register 2001, No. 43).

**1357.4. Causes for Denial of Admission.**

The program manager may deny an applicant admission to the program for any of the following reasons:

- (a) The applicant does not meet the requirements set forth in Section 1357.1.
- (b) The applicant has been disciplined by another state medical licensing authority.
- (c) Complaints or information have been received by the division which indicate that the applicant may have violated a provision of the Medical Practice Act or committed any other act that would be grounds for discipline, excluding Sections 822 and 2239 of the code.

(d) The committee recommends that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety or welfare.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2350 and 2354, Business and Professions Code.

## HISTORY:

1. Amendment of subsection (c) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Change without regulatory effect amending subsection (c) filed 7-26-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 31).
3. Amendment filed 10-19-2001; operative 11-18-2001 (Register 2001, No. 43).

**1357.5. Causes for Termination from the Program.**

The program manager may terminate a physician's participation in the program for any of the following reasons:

(a) The physician has failed to comply with the diversion agreement, including but not limited to, failure to comply with the prescribed monitoring or treatment regimen, use of alcohol or other unauthorized drug; or refusal to stop practice when directed to do so by the committee.

(b) Any cause for denial of an applicant in Section 1357.4.

(c) The physician has failed to comply with any of the requirements set forth in Section 1357.1.

(d) The committee recommends that the physician will not benefit from further participation in or has not substantially benefited from participation in the program or that the physician's continued participation in the program creates too great a risk to the public health, safety or welfare.

NOTE: Authority cited: Section 2018 and 2355, Business and Professions Code. Reference: Sections 2350, 2351 and 2354, Business and Professions Code.

## HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer of subsections (a) and (b), redesignation of subsections (b)(1)-(4) as (a)-(d), amendment of newly designated subsections (a) and (d) and amendment of Note filed 10-5-2000; operative 11-4-2000 (Register 2001, No. 42).
3. Editorial correction implementing printing of 10-5-2000 order (Register 2001, No. 42).
4. Amendment of first paragraph and subsection (d) filed 10-19-2001; operative 11-18-2001 (Register 2001, No. 43).

**1357.6. Notification of Termination.**

Whenever any physician who is self-referred is terminated from the program and has been determined to present a threat to the public health or safety, the program manager shall report such fact to the division, without the inclusion of any confidential information as defined in Section 1357.8.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2350 and 2355, Business and Professions Code.

## HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 10-5-2000; operative 11-4-2000 (Register 2001, No. 42).
3. Editorial correction implementing printing of 10-5-2000 order (Register 2001, No. 42).
4. Amendment filed 10-19-2001; operative 11-18-2001 (Register 2001, No. 43).

**1357.8. Confidentiality of Records.**

(a) All board, division, committee and program records relating to a physician's application to the program or participation in the program shall be kept confidential pursuant to Section 2355 of the code, including all information provided by the applicant, or by an examining physician, to the program manager, a medical consultant, members of the committee, or other employees of the division in connection with the program. Except as otherwise provided in section 1357.9, such records shall be purged when a physician's participation in the program is either completed or terminated.

(b) All other information or records received by the board prior to the acceptance of the applicant into the program, or which do not relate to the physician's application to the program, or which do not relate to the physician's participation in the program, shall not be maintained in a confidential manner as required by Section 2355 and may be utilized by the board in any disciplinary or criminal proceedings instituted against the physician.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2346 and 2355, Business and Professions Code.

## HISTORY:

1. Amendment filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Change without regulatory effect amending subsection (a) filed 3-21-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No.12).
3. Amendment to subsection (a) filed 10-05-00; effective thirtieth day thereafter (Register 2000, No. 42).

**1357.9. Retention of Diversion Program Participant Records.**

The diversion program shall retain the following types of records concerning a participant:

- (a) All intake reports and case analyses.
- (b) All agreements and amendments thereto.
- (c) All correspondence with the Enforcement Program.
- (d) All committee letters.
- (e) All file notes, laboratory and incident reports.
- (f) Computerized records derived from any of the foregoing types of documents.

NOTE: Authority cited: Sections 2018 and 2355, Business and Professions Code. Reference: Section 2355, Business and Professions Code.

## HISTORY:

1. New section filed 10-05-00; effective thirtieth day thereafter (Register 2000, No. 42).

**Article 3. Probation and Reinstatement of Suspended or Revoked Certificates****1358. Requirements for Physicians on Probation.**

Each physician and surgeon who has been placed on probation by the division shall be subject to the division's Probation Surveillance Compliance Program and shall be required to fully cooperate with representatives of the division and its investigative personnel. Such cooperation shall include, but is not necessarily limited to, submission to laboratory testing for the purpose of determining the existence of alcohol, narcotics, other controlled substances and/or dangerous drugs in his or her system. Such tests shall be made at the times and places required by the division or its duly authorized representative. Any monetary fees incurred as a result of such laboratory tests shall be borne by the physician-probationer.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2227, 2228, and 2229, Business and Professions Code.  
HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1359. Petitions for Reinstatement or Modification of Probation.**

(a) A petition for modification or termination of probation or a petition for reinstatement of a revoked certificate shall be filed on a form provided by the division.

(b) Consideration shall be given to a petition for reinstatement of license or modification or termination of probation only when a formal request for such has been filed in the division's office in Sacramento at least thirty (30) days before a regular meeting of the division or appropriate medical quality review panel.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2307, Business and Professions Code.

HISTORY:

1. Repealer of subsection (c) filed 4-11-80; effective thirtieth day thereafter (Register 80, No. 15).
2. Amendment of subsection (b) filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
3. Amendment filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

**1359.1. Petitions for Reinstatement of Revoked Certificates.**

NOTE: Authority cited: Section 2018, Business and Professions Code.

HISTORY:

1. Repealer filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1359.5. Application.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2307, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer filed 8-8-83; effective thirtieth day thereafter (Register 83, No. 33).

**1360. Substantial Relationship Criteria.**

For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 481, 2081 and 2236, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

**1360.1. Rehabilitation Criteria for Suspensions or Revocations.**

When considering the suspension or revocation of a license, certificate or permit on the ground that a person holding a license, certificate or permit under the Medical Practice Act has been convicted of a crime, the division, in evaluating the rehabilitation of such person and his or her eligibility for a license, certificate or permit shall consider the following criteria:

- (a) The nature and severity of the act(s) or offense(s).
- (b) The total criminal record.
- (c) The time that has elapsed since commission of the act(s) or offense(s).
- (d) Whether the licensee, certificate or permit holder has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.
- (e) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (f) Evidence, if any, of rehabilitation submitted by the licensee, certificate or permit holder.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 482, Business and Professions Code.

**HISTORY:**

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

**1360.2. Rehabilitation Criteria for Petitions for Reinstatement.**

When considering a petition for reinstatement of a license, certificate or permit holder pursuant to the provisions of Section 11522 of the Government Code, the division or panel shall evaluate evidence of rehabilitation submitted by the petitioner considering the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (b) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsections (a) or (b).
- (d) In the case of a suspension or revocation based upon the conviction of a crime, the criteria set forth in Section 1360.1, subsections (b), (d) and (e).
- (e) Evidence, if any, of rehabilitation submitted by the applicant.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 482, Business and Professions Code.

**HISTORY:**

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

**Article 4. Disciplinary Guidelines****1361. Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Division of Medical Quality of the Medical Board of California shall consider the disciplinary guidelines entitled "Manual of Disciplinary Guidelines and Model Disciplinary Orders" (8th Edition/1999) which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Division of Medical Quality of the Medical Board of California in its sole discretion determines by adoption of a proposed decision or stipulation that the facts of the particular case warrant such a deviation -- for example: the presence of mitigating factors; the age of the case; evidentiary problems.

NOTE: Authority cited: Sections 2018, Business and Professions Code; and Sections 11400.20 and 11400.21, Government Code. Reference: Sections 2227, 2228, 2229, and 2234, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

**HISTORY:**

1. New article 4 (section 1361) filed 5-1-97; effective thirtieth day thereafter (Register 97, No. 18). For prior history, see Register 95, No. 33.
1. Amendment to section filed 1-27-00; effective thirtieth day thereafter (Register 2000, No. 4).

**Article 4.5. Monitoring of Peer Review Disability Investigations****1362. Peer Review Body Disability Investigations**

(a) For purposes of Section 821.5 of the code, the progress of a formal investigation described in that section shall be deemed not “adequate to protect the public” unless the investigation meets the following criteria:

(1) Within 30 days after initiating a formal investigation, the peer review body gathers any necessary facts and determines whether any physical or psychological evaluation is needed.

(2) If no physical or psychological evaluation is necessary, the peer review body completes the investigation within 45 days after the formal investigation was initiated and reports its findings and disposition to the diversion program administrator within 15 days after such disposition.

(3) If one or more physical or psychological evaluations is necessary, the peer review body completes the investigation within 75 days after the formal investigation was initiated and reports its findings and disposition to the diversion program administrator within 15 days after such disposition.

(b) If the diversion program administrator determines that the progress of a formal investigation is not adequate to protect the public, the administrator shall so notify the chief of enforcement for the board. Not less than 10 days prior to making such a notification, the diversion program administrator shall notify the peer review body in writing of the administrator’s proposed decision to notify the chief of enforcement in order to allow the peer review body time to take appropriate action with respect to the formal investigation. If the peer review body takes remedial action adequate to protect the public, the administrator shall rescind the decision to notify the chief of enforcement.

NOTE: Authority cited: Section 821.6 and 2018, Business and Professions Code. Reference: Section 821.5, Business and Professions Code.

**HISTORY:**

1. New article 4.5 (sections 1362-1362.1) filed 8-21-97; effective thirtieth day thereafter (Register 97, No. 34). For prior history, see Register 95, No. 33.

**1362.1. Form of Report.**

(a) The report required by Section 821.5 of the code shall include all of the following information:

(1) The name, office address, telephone number, medical license number, and specialty of the physician being investigated;

(2) The name and address of the peer review body making the investigation, together with the name and telephone number of a contact person;

(3) A brief description of the reason for the investigation;

(4) The date the formal investigation was initiated;

(5) The proposed schedule for the investigation; and

(6) The printed name and title of each person signing the report and the date each person signed the report.

(b) The report shall be signed by the chief executive officer, medical director or administrator and also by the chief of medical staff (if any).

NOTE: Authority cited: Sections 821.6 and 2018, Business and Professions Code. Reference: Sections 821.5 and 821.6, Business and Professions Code.

**HISTORY:**

1. New section filed 8-21-97; effective thirtieth day thereafter (Register 97, No. 34).

**Article 5. Advertising and Standards of Practice****1363. Advertising.**

A licensed physician may advertise the provision of any medical services authorized to be provided by such license in a manner authorized by Section 651 of the code so long as such advertising does not promote the excessive or unnecessary use of such services.

NOTE: Authority cited: Sections 651 and 2018, Business and Professions Code. Reference: Sections 651, 651.3 and 2271, Business and Professions Code.

## HISTORY:

1. Amendment of article title and new section filed 4-11-80; effective thirtieth day thereafter (Register 80, No. 15).
2. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**1363.5. Advertising of Specialty Board Certification.**

(a) As used in this section,

(1) "specialty board" means a board or association which certifies physicians in a specialty or subspecialty area of medicine.

(2) "Specialty or subspecialty area of medicine" means a distinct and well-defined field of medical practice. It includes special concern with diagnostic and therapeutic modalities of patients' health problems, or it may concern health problems according to age, sex, organ system, body region, or the interaction between patients and their environment. A medical specialty promotes the standards of practice within its specialty association.

(b) If a physician advertises that he or she is certified by a specialty board or association in a specialty or subspecialty area of medicine and that specialty board or association is not a member board of the American Board of Medical Specialties (ABMS) or does not have a postgraduate training program approved by the Accreditation Council for Graduate Medical Education (ACGME) or the Royal College of Physicians and Surgeons of Canada (RCPSC), then the specialty board or association shall be approved by the Division of Licensing and shall comply with all of the following requirements:

(1) The primary purpose of the specialty board shall be certification in a medical specialty or subspecialty. The specialty board shall encompass the broad areas of the specialty or subspecialty.

(2) The specialty board shall not restrict itself to a single modality or treatment which may be part of a broader specialty or subspecialty.

(3) If the specialty board certifies professionals other than physicians, the specialty board shall not represent either that (i) the criteria set forth in these regulations or (ii) the medical board's approval of the specialty board's certification program is applicable to nonphysicians.

(4) The specialty board shall be a nonprofit corporation or association, and it shall have at least a total of 100 members located in at least one-third of the states who shall possess a clear and unrestricted license to practice medicine.

(5) The specialty board shall have articles of incorporation, a constitution, or a charter and bylaws which describe its operation. The bylaws shall:

(A) provide for an independent and stable governing body with staggered, limited terms of not more than six years that is internally-appointed or selected by the members.

(B) set forth the requirements and policies for certification by the specialty board.

(C) require that the specialty board promote the public interest by contributing to improvement of medicine by establishing requirements and evaluating applicants who apply.

(D) require that the specialty board determine whether applicants have received adequate preparation in accord with standards established by the specialty board.

(E) require evidence that applicants have acquired capability in a specialty or subspecialty area of medicine and will demonstrate special knowledge in that field.

(F) require that the specialty board conduct comprehensive evaluations of the knowledge and experience of applicants.

(6) The specialty board shall have standards for determining that those who are certified possess the knowledge and skills essential to provide competent care in the designated specialty or subspecialty area.

(Section 1363.5 continued on next page)

**1363.5 - Continued**

(7) More than 80 percent of the specialty board's revenue for continuing operations shall be from certification and examination fees, membership fees and interest and investment income.

(8)(A) Except as provided in subparagraph (B) or (C) of this paragraph (8), the specialty board shall require all applicants who are seeking certification to have satisfactorily completed a postgraduate training program accredited by the ACGME or the RCPSC that includes identifiable training in the specialty or subspecialty area of medicine in which the physician is seeking certification. This identifiable training shall be deemed acceptable unless determined by the Division of Licensing to be either (1) inadequate in scope, content and duration in that specialty or subspecialty area of medicine in order to protect the public health and safety or (2) not equivalent in scope and content to the residency training required for board certification by any related ABMS board for the specific conditions, disease processes and surgical procedures within the scope of the applicant certifying board's examination and certification.

(B) If the training required of applicants seeking certification by the specialty board is other than ACGME or RCPSC accredited postgraduate training, then the specialty board shall have training standards that include identifiable training in the specialty or subspecialty area of medicine in which the physician is seeking certification and that have been determined by the Division of Licensing to be equivalent in scope, content and duration to those of an ACGME or RCPSC accredited program in a related specialty or subspecialty area of medicine. This training shall be evaluated by the Division of Licensing to ensure that its scope, content and duration are equivalent to those of an ACGME or RCPSC accredited program and are adequate for training in that specialty or subspecialty area of medicine in order to protect the public health and safety.

(C) In lieu of the postgraduate training required under subparagraph (A) or (B) of this paragraph (8), the specialty board shall require applicants seeking certification to have completed (1) a minimum of six years of full time teaching and/or practice in the specialty or subspecialty area of medicine in which the physician is seeking certification and (2) a minimum of 300 hours of continuing medical education in the specialty or subspecialty area of medicine in which the physician is seeking certification which is approved under Section 1337 and 1337.5 of these regulations. Any teaching experience acceptable under this subparagraph shall have been in a postgraduate training program accredited by the ACGME or RCPSC or that meets the standards set forth in subparagraph (B) that includes identifiable training in the specialty or subspecialty area of medicine to be certified. This training shall be evaluated by the Division of Licensing and determined to be equivalent in scope, content, and duration to those of an ACGME or RCPSC accredited program in a related specialty or subspecialty area of medicine and to be adequate for training in that specialty or subspecialty area of medicine in order to protect the public health and safety. Teaching or practice experience accepted under this subparagraph shall be evaluated by and acceptable to the credentials committee of the specialty board pursuant to standards that are (1) specified in the bylaws of the specialty board and (2) approved by the Division of Licensing in accordance with criteria set forth in these regulations.

Physicians applying for certification who qualify under this subparagraph shall be required by the specialty board to have satisfactorily completed an ACGME or RCPSC accredited residency training program. This residency shall have provided training in the conditions and disease processes that are included in the new specialty.

Physicians who are certified by specialty boards under this subparagraph which are incorporated, or organized as an association on the effective date of these regulations, may advertise their board certification for three years from the effective date of these regulations. During that time, the specialty board shall demonstrate to the satisfaction of the Division of Licensing that there is in existence one or more postgraduate training programs that include identifiable training in the specialty or subspecialty area of medicine to be certified that meet the requirements of subparagraph (A) or (B) of this paragraph (8); then the specialty board's approval shall be permanent unless withdrawn under subsection (c). This training shall be evaluated by the Division of Licensing and determined to be equivalent in scope, content, and duration to those of an ACGME or RCPSC accredited program in a related specialty or subspecialty area of medicine and to be adequate for training in that specialty or subspecialty area of medicine in order to protect the public health and safety. If a specialty board cannot demonstrate its equivalency to ABMS boards in the three years following the effective date of these regulations, its members may not thereafter advertise certification by that board. This period may be extended for a year if the Division of Licensing determines that the specialty board is making a good faith effort towards achieving equivalency to ABMS boards.

Physicians who are certified by specialty boards under this subparagraph which are incorporated, or organized as an association after the effective date of these regulations, may not advertise their certification until the specialty board is determined by the Division of Licensing to be equivalent to ABMS boards. The specialty board shall demonstrate to the satisfaction of the Division of Licensing that there is in existence one or more postgraduate training programs that include identifiable training in the specialty or subspecialty area of medicine to be certified that meet the requirements of subparagraph (A) or (B) of this paragraph (8). This training shall be evaluated by the Division of Licensing and determined to be equivalent in scope, content, and duration to those of an ACGME or RCPSC accredited program in a related specialty or subspecialty area of medicine and to be adequate for training in that specialty or subspecialty area of medicine in order to protect the public health and safety.

(9) Except as provided in subparagraph (8)(C) above, at the time of application for approval to the Division of Licensing, a specialty board shall demonstrate that one or more postgraduate training programs are in existence and that these programs provide identifiable training in the specialty or subspecialty area of medicine in which physicians are seeking certification. This training shall be evaluated by the Division of Licensing and determined to be equivalent in scope, content and duration to those of an ACGME or RCPSC accredited program in a related specialty or subspecialty area of medicine and to be adequate for training in that specialty or subspecialty area of medicine in order to protect the public health and safety.

The specialty board shall submit a plan that (A) estimates the number of physicians to be certified through subsection (b)(8)(C), above; (B) specifies the number and location of post graduate training programs developed and to be developed; the number of trainees completing the training annually; (C) demonstrates the equivalency of those programs, as provided for in subsection (b)(8)(B), above; (D) provides for monitoring to evaluate the quality of existing programs; and (E) allows for upgrading of the parameters of the specialty or subspecialty area of medicine to accommodate new developments.

Every year the specialty board shall report to the Division of Licensing its progress in implementing the plan for postgraduate training programs in the specialty or subspecialty area of medicine in which physicians are seeking certification. Failure to so report shall be grounds for withdrawal of approval by the division. Failure of a specialty board to establish to the satisfaction of the division that it is in compliance with its plan, as stated in its original submission to the division, shall be grounds for withdrawal of the division's approval of the specialty board. Failure of a specialty board to provide evidence that the postgraduate training programs are equivalent in scope, content and duration to those of ACGME or RCPSC accredited programs shall be grounds for withdrawal of the approval.

**1363.5 - Continued**

(10) The specialty board shall require all physicians who are seeking certification to successfully pass a written or an oral examination or both which tests the applicants' knowledge and skills in the specialty or subspecialty area of medicine. All or part of the examinations may be delegated to a testing organization. All examinations shall be subject to a psychometric evaluation. The examinations shall be a minimum of sixteen (16) hours in length. Those specialty boards which require as a prerequisite for certification, prior passage of an ABMS examination in a related specialty or subspecialty area, may grant up to eight hours credit for the ABMS qualifying board examination toward the sixteen (16) hour testing requirement.

(11) The specialty board shall issue certificates to those physicians who are found qualified under the stated requirements of the specialty board.

(12) The specialty board shall assist in maintaining and elevating the standards of graduate medical education and facilities for specialty training in medicine in collaboration with other concerned organizations and agencies, and have a mechanism for assisting accrediting agencies in the evaluation of training programs.

(c)(1) Upon request the Division of Licensing will approve a specialty board if it meets the criteria set forth in these regulations. The division may withdraw the approval of a specialty board if the division finds that it fails to meet the criteria set forth in these regulations.

(2) Within 30 working days of receipt of an application for specialty board approval, the division shall inform the applicant in writing that it is either complete and accepted for filing and referral to a medical consultant selected by the division or that it is deficient and what specific information or documentation is required to complete the application.

(3) Within 918 calendar days from the date of filing of a completed application, the division shall inform the applicant in writing of its decision regarding the applicant's approval as a specialty board.

(4) The division's time periods for processing an application from the receipt of the initial application to the final decision regarding approval or disapproval based on the division's actual performance during the two years preceding the proposal of this section were as follows:

(A) Minimum - 646 days.

(B) Median - 714 days.

(C) Maximum - 918 days.

(d) Specialty boards approved by the Division of Licensing shall certify every three years from the date of approval that they continue to meet the requirements of these regulations.

(e) The Division of Licensing shall conduct such evaluations as it deems appropriate to ensure that applicant boards applying to the division meet the criteria of these regulations.

NOTE: Authority cited: Sections 651 and 2018, Business and Professions Code; and Section 15376, Government Code. Reference: Section 651, Business and Professions Code; and Section 15376, Government Code.

**HISTORY:**

1. New section filed 1-27-94; operative 2-28-94 (Register 94, No. 4).
2. Amendment to subsection (c) filed 3-24-99; effective thirty days thereafter (Register 99, No.13).

**1364. Ophthalmic Devices.**

The minimum quality standards for prescription ophthalmic devices sold, dispensed or furnished by ophthalmologists are the current standards of the American National Standard Institute Z80.1 and Z80.2.

NOTE: Authority cited: Sections 2018 and 2541.3, Business and Professions Code. Reference: Section 2541.3, Business and Professions Code.

**HISTORY:**

1. Amendment filed 4-11-80; effective thirtieth day thereafter (Register 80, No. 15).
2. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).

**Article 6. Citations and Fines****1364.10. Citations and Fines.**

(a) For purposes of this article, "board official" shall mean the chief, deputy chief or supervising investigator II of the enforcement program of the board or the chief of licensing of the board.

(b) A board official is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines for violations by a licensed physician or surgeon of the statutes referred to in Section 1364.11.

(c) A citation shall be issued whenever any fine is levied or any order of abatement is issued. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statute or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.

NOTE: Authority cited: Sections 125.9, 148 and 2018, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

**HISTORY:**

1. New article 6 and section filed 3-24-94; operative 4-25-94 (Register 94, No. 12).
2. Amendment of subsection (a) filed 11-25-96; effective thirtieth day thereafter (Register 96, No. 48).
1. Amendment of subsection (a) filed 2-26-01; effective upon filing (Register 2001, No. 10).

**1364.11. Citable Offenses.**

The amount of any fine to be levied by a board official shall take into consideration the factors listed in subdivision (b)(3) of Section 125.9 of the code and shall be within the range set forth below.

(a) A board official may issue a citation under Section 1364.10 for a violation of the provisions listed in this section. The fine for a violation of the following code sections shall be from \$100 to \$2500:

- (1) Business and Professions Code Section 119
- (2) Business and Professions Code Section 125
- (3) Business and Professions Code Section 125.6
- (4) Business and Professions Code Section 475(a)(1)
- (5) Business and Professions Code Section 496
- (6) Business and Professions Code Section 650
- (7) Business and Professions Code Section 650.1
- (8) Business and Professions Code Section 654
- (9) Business and Professions Code Section 654.1
- (10) Business and Professions Code Section 654.2
- (11) Business and Professions Code Section 655.5
- (12) Business and Professions Code Section 655.6
- (13) Business and Professions Code Section 702
- (14) Business and Professions Code Section 730
- (15) Business and Professions Code Section 732
- (16) Business and Professions Code Section 810
- (17) Business and Professions Code Section 2021
- (18) Business and Professions Code Section 2052
- (19) Business and Professions Code Section 2054
- (20) Business and Professions Code Section 2065
- (21) Business and Professions Code Section 2066
- (22) Business and Professions Code Section 2072
- (23) Business and Professions Code Section 2073
- (24) Business and Professions Code Section 2097
- (25) Business and Professions Code Section 2168
- (26) Business and Professions Code Section 2168.4
- (27) Business and Professions Code Section 2216.1

**1364.11 - Continued**

- (28) Business and Professions Code Section 2221.1
- (29) Business and Professions Code Section 2234 only for a violation of one of the following:
  - (A) Business and Professions Code Section 802(b)
  - (B) Business and Professions Code Section 802.1
  - (C) Health and Safety Code Section 102795
  - (D) Health and Safety Code Section 102800
  - (A) Health and Safety Code Section 103785
  - (F) Health and Safety Code Section 120250
  - (G) Health and Safety Code Section 121362
  - (H) Health and Safety Code Section 121363
  - (I) Title 17 California Code of Regulations Section 2500
- (30) Business and Professions Code Section 2236
- (31) Business and Professions Code Section 2238
- (32) Business and Professions Code Section 2240
- (33) Business and Professions Code Section 2244 (maximum fine \$1000 pursuant to section 2244)
- (34) Business and Professions Code Section 2243
- (35) Business and Professions Code Section 2250
- (36) Business and Professions Code Section 2255
- (37) Business and Professions Code Section 2256
- (38) Business and Professions Code Section 2257
- (39) Business and Professions Code Section 2259
- (40) Business and Professions Code Section 2261
- (41) Business and Professions Code Section 2262
- (42) Business and Professions Code Section 2263
- (43) Business and Professions Code Section 2264
- (44) Business and Professions Code Section 2265
- (45) Business and Professions Code Section 2266
- (46) Business and Professions Code Section 2271
- (47) Business and Professions Code Section 2272
- (48) Business and Professions Code Section 2273
- (49) Business and Professions Code Section 2274
- (50) Business and Professions Code Section 2285
- (51) Business and Professions Code Section 2286
- (52) Business and Professions Code Section 2305
- (53) Business and Professions Code Section 2400
- (54) Business and Professions Code Section 2415
- (55) Business and Professions Code Section 2439
- (56) Business and Professions Code Section 2440
- (57) Business and Professions Code Section 2441
- (58) Business and Professions Code Section 2630
- (59) Business and Professions Code Section 3516
- (60) Business and Professions Code Section 4080
- (61) Business and Professions Code Section 4081(a)
- (62) Business and Professions Code Section 17500
- (63) Title 16 California Code of Regulations Section 1338(c)
- (64) Title 16 California Code of Regulations Section 1399.545
- (65) Health and Safety Code Section 1248.15
- (66) Health and Safety Code Section 123110(a), (b)
- (67) Penal Code Section 11166

**1364.11 - Continued**

(b) In his or her discretion, a board official may issue a citation with an order of abatement without levying a fine for the first violation of any provision set forth above.

NOTE: Authority cited: Sections 125.9, 148 and 2018, Business and Professions Code. Reference: Sections 125.9, 148 and 2234 Business and Professions Code.

**HISTORY:**

1. New section filed 3-24-94; operative 4-25-94 (Register 94, No. 12).
2. Amendment filed 12-6-95; operative 1-5-96 (Register 95, No. 49).
3. Change without regulatory effect amending subsection (a)(54) filed 5-31-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No.22).
4. Amendment of section and Note filed 11-25-96; operative 12-25-96 (Register 96, No. 48).
5. New subsections (a)(26) and (a)(27) and subsection renumbering filed 1-8-99; operative 2-7-99 (Register 99, No. 2).
6. New subsections (a)(27) and (a)(29)(E), (a)(32), (a)(33), (a)(60), (a)(61), (a)(64), (a)(65), and subsection renumbering filed 11-8-00; operative 12-7-00 (Register 2000, No. 46).

**1364.12. Compliance with Orders of Abatement.**

(a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time in which to complete the correction from the board official who issued the citation. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When an order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation charged within the time allowed shall constitute a violation and a failure to comply with the order of abatement. An order of abatement shall either be personally served or mailed by certified mail, return receipt requested. The time allowed for the abatement of a violation shall begin when the order of abatement is final and has been served or received. Such failure may result in disciplinary action being taken by the Division of Medical Quality or other appropriate judicial relief being taken against the person cited.

NOTE: Authority cited: Sections 125.9, 148 and 2018, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

**HISTORY:**

1. New section filed 3-24-94; operative 4-25-94 (Register 94, No. 12).

**1364.13. Citations for Unlicensed Practice.**

A board official is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, partnerships, corporations or associations who are performing or who have performed services for which licensure as a physician and surgeon is required under the Medical Practice Act. The chief of licensing is authorized to issue citations and orders of abatement and levy fines only in the case of (a) physicians who have practiced medicine with a delinquent, inactive or restricted license or (b) applicants for licensure as a physician and surgeon who practice medicine beyond the exemptions authorized in Sections 2065 and 2066 of the Business and Professions Code. Each citation issued shall contain an order of abatement. Where appropriate, a board official shall levy a fine for such unlicensed activity in accordance with subdivision (b)(3) of Section 125.9 of the code. The provisions of Sections 1364.10 and 1364.12 shall apply to the issuance of citations for unlicensed activity under this subsection. The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

NOTE: Authority cited: Sections 125.9, 148 and 2018, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

**HISTORY:**

1. New section filed 3-24-94; operative 4-25-94 (Register 94, No. 12).
2. Amendment of section filed 2-26-01; effective upon filing (Register 2001, No. 10).

**1364.14. Contest of Citations.**

(a) In addition to requesting a hearing as provided for in subdivision (b)(4) of Section 125.9 of the code, the person cited may, within ten (10) days after service or receipt of the citation, notify the board official who issued the citation in writing of his or her request for an informal conference with the board official regarding the acts charged in the citation. The time allowed for the request shall begin the first day after the citation has been served or received.

(b) The board official who issued the citation shall, within 30 days from the receipt of the request, hold an informal conference with the person cited or his or her legal counsel or authorized representative. At the conclusion of the informal conference the board official may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The board official shall state in writing the reasons for his or her action and serve or mail a copy of his or her findings and decision to the person cited within ten days from the date of the informal conference, as provided in subsection (b) of Section 1364.12. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) The person cited does not waive his or her request for a hearing to contest a citation by requesting an informal conference after which the citation is affirmed by a board official. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 days in accordance with subdivision (b)(4) of Section 125.9 of the code.

NOTE: Authority cited: Sections 125.9, 148 and 2018, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

## HISTORY:

1. New section filed 3-24-94; operative 4-25-94 (Register 94, No. 12).

**1364.15. Public Disclosure; Record Retention.**

Every citation that is issued pursuant to this article shall be disclosed to an inquiring member of the public. Citations that have been resolved, by payment of the administrative fine or compliance with the order of abatement, shall be purged five (5) years from the date of resolution. A citation that has been withdrawn or dismissed shall be purged immediately upon being withdrawn or dismissed.

NOTE: Authority cited: Sections 125.9, 148 and 2018, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

## HISTORY:

1. New section filed 11-25-96; operative 12-25-96 (Register 96, No. 48).
2. Amendment to section filed 11-8-00; operative 12-7-00 (Register 2000, No. 46).

**Article 7. Public Letters of Reprimand****1364.20. Intent to Issue Public Letter of Reprimand.**

(a) In lieu of filing or prosecuting a formal accusation, the executive director or his/her designee may, by stipulation or settlement, issue a public letter of reprimand to a licensed physician and surgeon for minor violations.

(b) The division or its designee shall send a letter by certified mail notifying the licensee of its intention to issue a public letter of reprimand. The affected licensee shall indicate agreement or nonagreement in writing within 30 calendar days from the date of service. The division may, in its discretion, extend this response time.

(c) A letter from the division of its intent to issue a letter of reprimand shall include a copy of the proposed letter describing the nature and facts of the violation and shall state that the letter of reprimand is a public record which will be disclosed to an inquiring member of the public.

NOTE: Authority cited: Section 2018 and 2233, Business and Professions Code. Reference: Section 2233, Business and Professions Code.

HISTORY:

1. New article 7 (1364.20-1364.21) and section filed 3-2-95; operative 4-3-95 (Register 95, No. 9).

**1364.21. Public Letter of Reprimand; Disclosure.**

A letter of reprimand that has been agreed to by a licensee and issued pursuant to this article shall be served upon the licensee by certified mail and shall be disclosed to an inquiring member of the public.

NOTE: Authority cited: Section 2018 and 2233, Business and Professions Code. Reference: Section 2233, Business and Professions Code.

HISTORY:

1. New section filed 3-2-95; operative 4-3-95 (Register 95, No. 9).

**Article 8. Oral Arguments; Amicus Briefs****1364.30. Procedures for the Conduct of Oral Arguments.**

(a) A party who wishes to present oral argument to the panel of the division that issued an order of nonadoption or reconsideration shall make a written request for oral argument not later than twenty (20) calendar days after the date of the notice of nonadoption or the order granting reconsideration.

(b) An administrative law judge will preside at oral argument. The administrative law judge may sit with and assist the panel members with their closed session deliberations.

(c) The arguments shall be based only on the existing record and shall not exceed the scope of the record of duly admitted evidence. No new evidence will be heard. The panel members may ask questions of the parties to clarify the arguments, but may not ask questions that would elicit new evidence.

(d) The administrative law judge shall stop an attorney, a party, or a panel member if the line of questioning or argument is beyond the record or is otherwise out of order.

(e) The administrative law judge shall offer the respondent physician an opportunity to address the panel regarding the penalty.

(f) The sequence of, and time limitations on, oral argument are as follows:

(1) First--the respondent licensee and/or his or her legal counsel, who shall be limited to fifteen minutes.

(2) Second--the deputy attorney general, who shall be limited to fifteen minutes.

(3) Third--the respondent licensee's rebuttal or that of his or her legal counsel, which shall be limited to five minutes.

(4) Fourth--the deputy attorney general, who shall be limited to five minutes.

NOTE: Authority cited: Section 2018 and 2336, Business and Professions Code. Reference: Section 2336, Business and Professions Code.

HISTORY:

1. New article 8, section 1364.30 and section filed 12-22-98; operative 1-21-99 (Register 98, No. 52).
2. Editorial correction inserting inadvertently omitted article 8 heading (Register 99, No. 33).
3. Amendment of article heading filed 4-7-00; operative 5-7-00 (Register 2000, No. 14).

**1364.31. Amicus Briefs.**

(a) A non-party with an interest in the outcome of an administrative proceeding may be permitted to file an amicus curiae brief when a panel has nonadopted a proposed decision or has received or granted a petition for reconsideration of a decision. The filing of an amicus curiae brief regarding whether a panel should nonadopt a proposed decision is not permitted.

(b) A person who wishes to file an amicus curiae brief shall file with the executive director of the board a signed request, not to exceed one page, specifying the points to be argued in the brief and indicating why additional argument on those points is necessary or would be helpful to the panel. The request shall be accompanied by the original and six copies of the brief. The petitioner shall include a proof of service of the request and brief on the deputy attorney general assigned to the case. The brief shall be limited to matters contained in the record of the proceeding and shall not include or incorporate any attachments. No delay in the proceedings will be granted in order to allow an amicus curiae brief to be filed.

(c) The executive director shall immediately transmit the request to the chairperson of the panel. The decision whether to grant the request shall be made by the panel chairperson and one member designated by the chairperson. In the event the vote is not unanimous, the request shall be deemed denied. The request may be granted in whole or in part or may be denied without explanation. In determining whether to grant a request to file an amicus curiae brief, the following factors, among other factors, shall be considered:

- (1) whether the matters in the brief will be helpful to the panel;
- (2) the interest of the public and public policy, including the effect of the decision on non-parties; and
- (3) the costs to the parties to reply to the amicus curiae brief.

(d) If the request is granted, the executive director shall then transmit a copy of the brief to each panel member.

(e) Where a decision has been nonadopted or a petition for reconsideration has been granted, a request to file an amicus curiae brief will be considered only if it is received no later than 45 days prior to the date on which oral argument is scheduled or the matter is to be considered by the panel if no oral argument has been requested.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 11440.50, Government Code.

**HISTORY:**

1. New section filed 4-7-00; operative 5-7-00 (Register 2000, No 14).

**Article 9. Precedent Decisions****1364.40. Precedent Decisions.**

(a) The division may designate, as a precedent decision, any decision or part of any decision that contains a significant legal or policy determination of general application that is likely to recur. The division may also designate as a precedent decision any precedent decision issued by another California state government agency.

(b) Once the division designates a decision or part of a decision as precedent, the division may rely on it or that part of it as precedent and the parties may cite to such decision in their argument to the division and courts.

(c) The division may reverse in whole or in part the prior designation of a decision as a precedent decision.

(d) Notice of intent to designate or withdraw designation of a precedent decision shall be given with the notice of a division meeting. Interested persons may submit written comments for or against the proposed action. The division may decide the issue at that meeting or put the matter over to a subsequent meeting.

NOTE: Authority cited: Section 2018, Business and Professions Code. Section 11425.60, Government Code. Reference: Section 11425.60, Government Code.

**HISTORY:**

1. New Article 9 and section filed 11-6-00; operative 12-5-00 (Register 2000, No. 46).

**Chapter 3. Affiliated Healing Arts\***

\* - For disposition for former Sections 1370-1375.45, see Table of Parallel Reference, Chapter 13.2, Title 16, California Code of Regulations.

**Article 1. General Provisions**

**1365. Administration.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2006, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Change without regulatory effect repealing article 1 and section filed 3-19-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No.12).

**1365.1. Location of Office.**

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2019, Business and Professions Code.

HISTORY:

1. Amendment of NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Change without regulatory effect amending section filed 9-9-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 51).
3. Change without regulatory effect repealing section filed 3-19-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No.12).

**1365.2. Tenses, Gender and Number.**

NOTE: Authority and reference cited: Section 2018, Business and Professions Code.

HISTORY:

1. New NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer filed 8-3-83; effective thirtieth day thereafter (Register 83, No. 32).

**1365.3. Definitions.**

NOTE: Authority and reference cited: Section 2018, Business and Professions Code.

HISTORY:

1. New NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Amendment filed 8-3-83; effective thirtieth day thereafter (Register 83, No. 32).
3. Change without regulatory effect amending subsection (a) filed 9-9-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 51).
4. Change without regulatory effect repealing section filed 3-19-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No.12).

**1365.4. Continuation of Existing Regulations.**

NOTE: Authority cited: Section 2018, Business and Professions Code.

HISTORY:

1. New NOTE filed 8-5-81; effective thirtieth day thereafter (Register 81, No. 32).
2. Repealer filed 8-3-83; effective thirtieth day thereafter (Register 83, No. 32).

**Article 2. Medical Assistants****1366. Additional Technical Supportive Services.**

(a) A medical assistant may perform additional technical supportive services such as those specified herein provided that all of the following conditions are met:

(1) Each technical supportive service is not prohibited by another provision of law, including Section 2069(c) of the code, or these regulations, and is a usual and customary part of the medical or podiatric practice where the medical assistant is employed;

(2) The supervising physician or podiatrist authorizes the medical assistant to perform the service and shall be responsible for the patient's treatment and care;

(3) The medical assistant has completed the training specified in Sections 1366.2, 1366.3, and 1366.4 and has demonstrated competence in the performance of the service;

(4) A record shall be made in the patient chart or other record, including a computerized record, if any, of each technical supportive service performed by the medical assistant, indicating the name, initials or other identifier of the medical assistant, the date and time, a description of the service performed, and the name of the physician or podiatrist who gave the medical assistant patient-specific authorization to perform the task or who authorized such performance under a patient-specific standing order.

(5) The supervising physician or podiatrist may, at his or her discretion, provide written instructions to be followed by a medical assistant in the performance of tasks or supportive services. Such written instructions may provide that a physician assistant or registered nurse may assign a task authorized by a physician or podiatrist.

(b) A medical assistant in accordance with the provisions of subsection (a) may perform additional technical supportive services such as the following:

(1) Administer medication orally, sublingually, topically, vaginally or rectally, or by providing a single dose to a patient for immediate self-administration. Administer medication by inhalation if the medications are patient-specific and have been or will be routinely and repetitively administered to that patient. In every instance, prior to administration of medication by the medical assistant, a licensed physician or podiatrist, or another person authorized by law to do so shall verify the correct medication and dosage. Nothing in this section shall be construed as authorizing the administration of any anesthetic agent by a medical assistant.

(2) Perform electrocardiogram, electroencephalogram, or plethysmography tests, except full body plethysmography. Nothing in this section shall permit a medical assistant to perform tests involving the penetration of human tissues except for skin tests as provided in Section 2069 of the code, or to interpret test findings or results.

(3) Apply and remove bandages and dressings; apply orthopedic appliances such as knee immobilizers, envelope slings, orthotics, and similar devices; remove casts, splints and other external devices; obtain impressions for orthotics, padding and custom molded shoes; select and adjust crutches to patient; and instruct patient in proper use of crutches.

(4) Remove sutures or staples from superficial incisions or lacerations.

(5) Perform ear lavage to remove impacted cerumen.

(6) Collect by non-invasive techniques, and preserve specimens for testing, including urine, sputum, semen and stool.

(7) Assist patients in ambulation and transfers.

(8) Prepare patients for and assist the physician, podiatrist, physician assistant or registered nurse in examinations or procedures including positioning, draping, shaving and disinfecting treatment sites; prepare a patient for gait analysis testing.

(9) As authorized by a physician or podiatrist, provide patient information and instructions.

(10) Collect and record patient data including height, weight, temperature, pulse, respiration rate and blood pressure, and basic information about the presenting and previous conditions.

**1366 - Continued**

(11) Perform simple laboratory and screening tests customarily performed in a medical office.

(12) Cut the nails of otherwise healthy patients.

(c) Nothing in this section prohibits the administration of first aid or cardiopulmonary resuscitation in an emergency.

(d) Nothing in these regulations shall be construed to authorize a medical assistant to practice physical therapy.

(e) Nothing in these regulations shall be construed to modify the requirement that a licensed physician or podiatrist be physically present in the treatment facility as required in Section 2069 of the code.

(f) A medical assistant may also fit prescription lenses or use any optical device in connection with ocular exercises, visual training, vision training, or orthoptics pursuant to Sections 2544 and 3042 of the code, but nothing in these regulations shall require a technician performing only those functions permitted by Sections 2544 and 3042 of the code to be qualified as a medical assistant.

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions code. Reference: Sections 2069 and 2070, Business and Professions Code.

**HISTORY:**

1. Renumbering and amendment of former article 4 (sections 1376-1377.1) to article 2 (sections 1366 and 1366.1); effective thirtieth day thereafter (Register 83, No. 32). For prior history, see Registers 79, No. 49; 78, No. 12; and 77, No. 35.
2. Renumbering and amendment of former section 1366 to section 1366.1 and new section filed 3-20-92; operative 4-20-92 (Register 92, No. 13).
3. Change without regulatory effect repealing subsection (b)(4) and the introductory portion of subsection (d) filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations in accordance with the Judgment of the Superior Court of California for the County of Sacramento entered on 5-25-94, Case Nos. 532588 and 531542 (Register 94, No. 46).
4. Amendment of subsections (a)(1), (4), filed 2-14-96; operative 3-13-96 (Register 96, No. 7).
5. Repealer of subsection (b)(4) and subsection renumbering pursuant to *California Optometric Association v. The Division of Licensing of the Medical Board of California*, Sacramento Superior Court Case 96 AS 01599, judgment entered June 12, 1997. Filed 12-12-97; operative 12-12-97 pursuant to Government Code Section 11343.4(d) (Register 97, No. 50).

**1366.1. Training to Perform Venipuncture, Injections and Inhalation of Medication.**

In order to administer medications by intramuscular, subcutaneous and intradermal injection, to perform skin tests, or to perform venipuncture of skin puncture for the purposes of withdrawing blood, a medical assistant shall have completed the minimum training prescribed herein. Training shall be for the duration required by the medical assistant to demonstrate to the supervising physician, podiatrist, or instructor, as referenced in Section 1366.3(a)(2), proficiency in the procedures to be performed as authorized by Sections 2069 or 2070 of the code, where applicable, but shall include no less than:

(a) Ten (10) clock hours of training in administering injections and performing skin tests, and/or

(b) Ten (10) clock hours of training in venipuncture and skin puncture for the purpose of withdrawing blood, and

(c) Satisfactory performance by the trainee of at least ten (10) each of intramuscular, subcutaneous, and intradermal injections and ten (10) skin tests, and/or at least ten (10) venipunctures and ten (10) skin punctures.

(d) For those only administering medication by inhalation, ten (10) clock hours of training in administering medication by inhalation.

(e) Training in (a) through (d) above, shall include instruction and demonstration in:

(1) pertinent anatomy and physiology appropriate to the procedures;

(2) choice of equipment;

(3) proper technique including sterile technique;

(4) hazards and complications;

(5) patient care following treatment or test;

(6) emergency procedures; and

(7) California law and regulations for medical assistants.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2069 and 2070, Business and Professions Code.

**HISTORY:**

1. Renumbering and amendment of former section 1366.1 to section 1366.3 and renumbering and amendment of former section 1366 to section 1366.1 filed 3-20-92; operative 4-20-92 (Register 92, No. 13).

**1366.2. Training to Perform Additional Technical Supportive Services.**

Prior to performing any of the additional technical supportive services provided in Section 1366, a medical assistant shall receive such training as, in the judgement of the supervising physician, podiatrist or instructor, as referenced in Section 1366.3(a)(2), is necessary to assure the medical assistant's competence in performing that service at the appropriate standard of care. Such training shall be administered pursuant to either subsection (a)(1) or (a)(2) of Section 1366.3.

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY:**

1. New section filed 3-20-92; operative 4-20-92 (Register 92, No. 13).

**1366.3. Administration of Training.**

(a) Training required in Sections 1366, 1366.1 or 1366.2 may be administered in either of these settings:

(1) Under a licensed physician or podiatrist, who shall ascertain the proficiency of the medical assistant; or under a registered nurse, licensed vocational nurse, physician assistant or a qualified medical assistant acting under the direction of a licensed physician or podiatrist who shall be responsible for determining the content of the training and the proficiency of the medical assistant except that training to administer medication by inhalation shall be provided by a licensed physician or respiratory care practitioner; or

(2) In a secondary, postsecondary, or adult education program in a public school authorized by the Department of Education, in a community college program provided for in Part 48 of Division 7 of the Education Code, or a postsecondary institution accredited by an accreditation agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary and Vocational Education under Sections 94130 or 94311 of the Education Code. A licensed physician or podiatrist shall serve as advisor to the medical assistant training program. The instructor in a public school setting shall possess a valid teaching credential issued by the Commission on Teacher Credentialing. The instructor in a private postsecondary institution shall meet the requirements of Sections 94310 and 94311 of the Education Code and any regulations adopted pursuant to those sections.

(b) The supervising physician or podiatrist, pursuant to subsection (a)(1) or the instructor pursuant to subsection (a)(2) shall certify in writing the place and date such training was administered, the content and duration of the training, and that the medical assistant was observed by the certifying physician, podiatrist, or instructor to demonstrate competence in the performance of each such task or service, and shall sign the certification. More than one task or service may be certified in a single document; separate certifications shall be made for subsequent training in additional tasks or services.

(c) For purposes of this section only, a "qualified medical assistant" is a medical assistant who:

(1) is certified by a medical assistant certifying organization approved by the division;

(2) holds a credential to teach in a medical assistant training program at a community college; or

(3) is authorized to teach medical assistants in a private postsecondary institution accredited by an accreditation agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary and Vocational Education.

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY:**

1. Renumbering and amendment of former section 1366.1 to section 1366.3 filed 3-20-92; operative 4-20-92 (Register 92, No. 13).
2. Amendment of subsections (a)(1)-(2) filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
3. Amendment to section filed 3-23-99; operative 4-22-99 (Register 99, No.13).

**1366.31. Approved Certifying Organizations.**

(a) An organization that certifies medical assistants may apply to the division for approval. This application shall include the following information:

- (1) Name and address of the applicant;
- (2) Applicant's federal employee identification number (FEIN) or social security number;
- (3) Name, address and telephone number of a contact person for the applicant;
- (4) Name, address and telephone number of the accrediting organization that accredited the applicant;
- (5) Name, address and telephone number of the organization that validated the applicant's certifying examination;
- (6) Information sufficient to establish that the certifying organization meets the standards set forth in subsection (b).

(b) For purposes of Section 1366.3(c)(1), an organization that certifies medical assistants shall be approved if it meets all of the following standards:

- (1) Is a non-profit, tax-exempt organization;
- (2) Requires all applicants for certification to successfully complete a psychometrically valid examination that is secure, is occupationally relevant and tests for the skills and procedures outlined in Section 1366;
- (3) Has as a requirement for certification of a medical assistant in one or more of the following:
  - (A) Graduation from a medical assistant training program accredited by an accreditation agency recognized by the United States Department of Education;
  - (B) Graduation from a medical assistant training program in a postsecondary institution accredited by an accreditation agency recognized by the United States Department of Education or an institution approved by the Bureau for Private Postsecondary and Vocational Education;
  - (C) A minimum of 2 years experience as a practicing medical assistant within 5 years immediately preceding the date of examination;
  - (D) Military training or schooling equivalent to that described in subsections (A) or (B) above;
  - (E) Employment at the time of certification as an instructor in an accredited medical assistant program or institution;
- (4) Requires its certificate holders to obtain a minimum of 60 hours of continuing education related to the practice of medical assistants over a 5 year period.

(c) The American Association of Medical Assistants and the American Medical Technologists, which were previously referenced in Section 1366.3(a), shall be deemed approved as medical assistant certifying organizations. This approval shall terminate on January 1, 2000 unless prior to that time the above certifying organizations have applied for and been approved by the division. This paragraph shall be automatically repealed on January 1, 2000.

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY:**

1. New section filed 3-23-99; operative 4-22-99 (Register 99, No.13).

**1366.32. Report of Changes by Certifying Organization; Review by Division.**

(a) An approved certifying organization shall notify the division within 30 days thereafter of any changes related to the standards contained in Section 1366.31.

(b) The division shall review each approved certifying body at least once every 5 years for compliance with the standards set forth in Section 1366.31. The division may, in its discretion, review any certifying organization that has submitted a notice of changes as required by subsection (a).

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY:**

1. New section filed 3-23-99; operative 4-22-99 (Register 99, No.13).

**1366.33. Permit Processing Times—Approved Certifying Organizations (Section 2071).**

(a) Within 60 working days of receipt of an application pursuant to Section 1366.31 for an approved certifying organization registration, the division shall inform the applicant in writing whether it is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the requirements of Section 1366.31.

(b) Within 100 calendar days from the date of filing of a completed application, the division shall inform the applicant in writing of the decision regarding the application for an approved certifying organization registration.

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY:**

1. New section filed 3-23-99; operative 4-22-99 (Register 99, No.13).

**1366.4. Training in Infection Control.**

Each medical assistant shall receive training in the Center for Disease Control "Guidelines for Infection Control in Hospital Personnel" (July 1983) and shall demonstrate to the satisfaction of the supervising physician, podiatrist or instructor that he or she understands the purposes and techniques of infection control.

NOTE: Authority cited: Sections 2018 and 2071, Business and Professions Code. Reference: Sections 2069, 2070 and 2071, Business and Professions Code.

**HISTORY:**

1. New section filed 3-20-92; operative 4-20-92 (Register 92, No. 13).

**Article 3. Research Psychoanalysts****1367. Citation.**

This chapter may be cited and referred to as the "Research Psychoanalyst Regulations."

NOTE: Authority and reference cited: Section 2018, Business and Professions Code.

**HISTORY:**

1. Repealer of former Article 3 (Sections 1370-1374 ) and renumbering and amendment of former Article 5 (Sections 1378-1378.32, not consecutive) to Article 3 (Sections 1367-1378, not consecutive) filed 8-3-83; effective thirtieth day thereafter (Register 83, No. 32). For prior history, see Registers 81, No. 32; and 79, No. 29.

**1367.1. Definitions.**

As used in this article:

(a) "Research Psychoanalyst" means psychoanalyst who is registered with the division.

(b) "Student" means a person enrolled in a psychoanalytic institution for training in psychoanalysis who is registered with the division.

(c) "Graduate psychoanalyst" means a licensed physician, psychologist, clinical social worker or marriage, family and child counselor who has had training in psychoanalysis equal to that specified in Section 1374 or a research psychoanalyst who is a graduate of either a psychoanalytic institute specified in Section 2529 of the code or a psychoanalytic institution deemed equivalent by the division which meets the criteria set forth in Section 1374.

(d) "Psychoanalytic institution" means any institution, institute, department or program organized to provide training in psychoanalytic theory and technique meeting the criteria of Section 1374 and which certifies or graduates students engaged in such training.

(e) "Research psychoanalysts law" means Chapter 5.1 of Division 2 of the code.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1367.2. Delegation of Authority.**

The power and discretion conferred upon the division to review and approve applications for registration and to enforce the provisions of the research psychoanalysts law are hereby delegated and conferred upon the executive director of the board or his or her staff.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2529 and 2529.5, Business and Professions Code.

**1367.3. Applications Generally.**

All applications for registration shall be submitted on a form provided by the division and shall be accompanied by such evidence or documents which may be necessary to determine the applicant's qualifications for registration. All such applications shall be filed with the division's principal office in Sacramento and shall be accompanied by the required registration fee.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1367.4. Review of Research Psychoanalyst Applications; Processing Time.**

(a) The division shall inform in writing an applicant for registration as a research psychoanalyst within 11 days of receipt of the initial application form whether the application is complete and accepted for filing or is deficient and what specific information is required.

(b) The division shall inform an applicant for registration as a research psychoanalyst within 71 days after completion of the application of its decision whether the applicant meets the requirements for registration. "Completion of the application" means that a completed application form together with all required information, documentation and fees have been filed by the applicant.

(c) The minimum, median and maximum processing times for an application for registration as a research psychoanalyst from the time of receipt of the initial application until the division makes a final decision on the application are:

(1) Minimum - 7 days

(2) Median - 22 days

(3) Maximum - 95 days

NOTE: Authority cited: Section 2018, Business and Professions Code; Section 15376, Government Code. Reference: Section 15376, Government Code.

**HISTORY:**

1. New section filed 10-3-83; effective thirtieth day thereafter (Register 83, No. 41).

**1368. Evidence Required of Graduate or Student Status.**

All applicants shall submit to the division with the application for registration official certification of graduation or student status, as the case may be, from the registrar or a similar office of the institution attended.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1369. Registration Not Required.**

Physicians and surgeons, psychologists, clinical social workers, and marriage, family and child counselors, licensed in this state, and any other persons otherwise exempt from the Medical Practice Act (Section 2000 et seq. of the code) or otherwise exempt from other state licensure laws are not required to register with the division in order to engage in research psychoanalysis.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1370. Completion of Clinical Training Defined.**

The term "completed clinical training" as used in Section 2529 of the code means completion of psychoanalytic training in a psychoanalytic institute referred to in that section or from an institute, department or program deemed equivalent by the division.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1371. Adjunct Defined.**

A research psychoanalyst may engage in psychoanalysis as an adjunct to teaching, training or research. "Adjunct" means that the research psychoanalyst may not engage in a full-time clinical practice rendering psychoanalytic services on a fee-for-service basis. A research psychoanalyst may render psychoanalytic services on a fee-for-service basis for not more than an average of one-third of his or her total professional time including time spent in practice, teaching, training or research. Such teaching, training or research shall be the primary activity of the research psychoanalyst. This primary activity may be demonstrated by

(a) A full-time faculty appointment at the University of California, a state university or college, or an accredited or approved educational institution as defined in Section 94310, subdivisions (a) and (b), of the Education Code.

(b) Significant ongoing responsibility for teaching or training as demonstrated by the amount of time devoted to such teaching or training or the number of students trained; or

(c) A significant research effort demonstrated by publications in professional journals or publication of books.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1372. Supervision of Students Required.**

Students may practice psychoanalysis under proper supervision as set forth in Section 1373.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1373. Criteria for Supervision.**

(a) Each supervisor of a student shall be a graduate psychoanalyst who has a minimum of five years of postgraduate clinical experience in psychoanalysis following completion of his or her psychoanalytic education.

(b) Each such supervisor shall

(1) provide individual supervision of each student for a minimum of one (1) hour for each week per case of patient psychoanalysis for the first year of such supervision, then no less than one (1) hour per case each month thereafter;

(2) supervise no more students than, in the judgment of the training institute, can be effectively supervised.

(c) There shall be a minimum of 50 hours of supervision for each case for a total of at least 150 hours of supervision during training.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1373.1. Registration After Graduation.**

Any person who has been registered with the division as a research psychoanalyst student who wishes to continue to perform psychoanalysis shall, upon completion of training in psychoanalysis, register with the division as a research psychoanalyst.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1374. Criteria for Equivalent Psychoanalytic Institutes.**

In order to be deemed an equivalent psychoanalytic institute, such an institute, department or program shall meet the following criteria:

(a) Have a curriculum which is designed and implemented by a faculty which is predominantly graduate psychoanalysts;

(b) Insure that each student has practical clinical exposure to a wide variety of psychopathologies and training in their differential diagnosis;

(c) Require each research psychoanalyst student prior to admission to have received a doctorate degree, or its equivalent in education and experience from the University of California, a state university or college, an educational institution which is accredited or approved pursuant to section 94310 of the Education Code or an educational institution located outside the state which has accreditation by a national or applicable regional accrediting agency recognized by the United States Department of Education;

(d) Require each research psychoanalyst student prior to admission to have shown achievement in teaching, training or research with demonstrated aptitude in his or her primary field of scholarly or scientific endeavor;

(e) Require each student to participate in at least 560 hours of classroom training over at least three (3) years on all phases of psychoanalysis;

(f) Require each student to participate in continuous case conferences conducted by graduate psychoanalysts;

(g) Require each student to undergo a minimum of 300 hours personal psychoanalysis conducted by a graduate psychoanalyst who has a minimum of five years of postgraduate clinical experience in psychoanalysis following the completion of his or her psychoanalytic education;

(h) Require each student to conduct at least three (3) psychoanalyses under the supervision of three different graduate psychoanalysts, at least one of which is taken to termination except in those rare instances where a delay may pose an extreme hardship to the student and the institute has made provision for continuing supervision of the student after graduation until at least one case is taken to termination;

(i) Require each student to either pass a comprehensive examination or write an approved thesis.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**HISTORY:**

1. Editorial correction of printing error restoring subsection (g) designation (Register 90, No. 51).
2. Amendment of subsection (h) filed 11-9-90; operative 12-9-90 (Register 90, No. 51).

**1375. Applicants from Equivalent Institutions.**

(a) Any applicant from a psychoanalytic institution which is claimed to be equivalent to an institute specified in Section 2529 shall have presented to the division evidence that such institution complies with the criteria set forth in Section 1374.

(b) In its discretion the division may register an applicant who graduated from an equivalent institution before the time of its approval by the division, if the program undertaken by the applicant as a student otherwise complies with the provisions of Section 1374.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1376. Unprofessional Conduct.**

The division may deny, suspend, revoke or impose probationary conditions upon a registrant for unprofessional conduct as specified in Section 2529 of the code which includes, but is not limited to, the following:

- (a) Any violation of the research psychoanalysts law.
- (b) Any violation of the Research Psychoanalysts Regulations.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1376.1. Disciplinary Actions.**

Any action taken by the division to deny, suspend, revoke or impose probationary conditions upon a registrant shall be pursuant to the Administrative Procedure Act (Section 11500 et seq. of the Government Code).

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529, Business and Professions Code.

**1377. Fees.**

(a) The registration fee is \$100 for research psychoanalysts and students, except that if the registration will expire less than one (1) year after its issuance, then the registration fee is \$75.

(b) The biennial renewal fee is \$50.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529.5, Business and Professions Code.

**1377.5. Verification of Student Status.**

Students renewing their registration shall present to the division verification of their continuing student status from the registrar or similar official of the psychoanalytic institute attended.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2529.5, Business and Professions Code.

**1378. Expiration of Registration.**

All registrations expire and become invalid at midnight on the last day of February of each even-numbered year if not renewed. To renew an unexpired registration, the registrant shall, on or before the date on which it would otherwise expire, apply for renewal on a form provided by the division, accompanied by a required verification and the prescribed renewal fee.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 152.6 and 2529.5, Business and Professions Code.

**Article 4. Standardized Procedure Guidelines****1379. Standardized Procedures for Registered Nurses.**

A physician and surgeon or a podiatrist who collaborates in the development of standardized procedures for registered nurses shall comply with Title 16 California Administrative Code Sections 1470 through 1474 governing development and use of standardized procedures.

NOTE: Authority cited: Sections 2018 and 2725, Business and Professions Code. Reference: Section 2725, Business and Professions Code.

**HISTORY:**

1. Renumbering and amendment of former Article 4 (Sections 1376-1377.1) to Article 2 (Sections 1366 and 1366.1), and new Article 4 (Section 1379) filed 8-3-83; effective thirtieth day thereafter (Register 83, No. 32). For prior history, see Registers 81, No. 32; and 78, No. 17.

**Article 5. Research Psychoanalysts**

NOTE: Authority cited: Sections 2529 and 3510, Business and Professions Code. Reference: Section 3510 and Chapter 5.1 (commencing with Section 2529 ), Division 2, Business and Professions Code.

**HISTORY:**

1. Renumbering of Article 15 (Sections 1379-1379.86) to Article 5 (Sections 1379-1379.86) of Subchapter 3 filed 5-20-77; effective thirtieth day thereafter (Register 77, No. 21). For latest prior history, see Register 76, No. 52.
2. Repealer of Article 5 (Sections 1379-1379.86) and redesignation as Chapter 13.7 ( Sections 1399.50, et seq. ) filed 11-22-77; effective thirtieth day thereafter (Register 77, No. 48). For prior history, see Register 72, Nos. 39 and 49, Register 73, Nos. 18, 21, 35 and 38, Register 74, No. 45, Register 76, Nos. 30, 33 and 52; and Register 77, No. 25.
3. Editorial correction of History note No. 2 (Register 78, No. 33).
4. New Article 5 (Sections 1378-1378.32, not consecutive) filed 10-12-78; effective thirtieth day thereafter (Register 78, No. 41).
5. Renumbering and amendment of Article 5 ( Sections 1378-1378.32, not consecutive) to Article 3 (Sections 1367-1378, not consecutive) filed 8-3-83; effective thirtieth day thereafter (Register 83, No. 32). For prior history, see Registers 81, No. 32; and 79, No. 29.

**Chapter 4. Licensed Midwives****Article 1. General Provisions****1379.1. Location of Office.**

The Midwifery Licensing Program is located at 1426 Howe Avenue, Sacramento, CA 95825.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2505 through 2521, Business and Professions Code.

HISTORY:

1. New chapter 4, article 1 and section filed 4-26-95; operative 5-26-95 (Register 95, No. 17).

**1379.2. Definitions.**

For the purposes of the regulations contained in this chapter and for purposes of Article 24 of Chapter 5 of Division 2 (commencing with section 2505) of the code:

(a) "Accrediting organization approved by the board," as used in section 2515 of the code, means either an accrediting organization that is recognized by the United States Department of Education, Division of Accreditation, or an accrediting organization that is equivalent thereto.

(b) "Board" means the Division of Licensing of the Medical Board of California.

(c) "Code" means the Business and Professions Code.

(d) "Midwifery education program" includes but is not limited to nurse midwifery education programs.

NOTE: Authority cited: Section 2514.5, Business and Professions Code. Reference: Sections 2505 through 2521, Business and Professions Code.

HISTORY:

1. New section filed 4-26-95; operative 5-26-95 (Register 95, No. 17).
1. Amendment to section filed 7-23-98; effective thirtieth day thereafter (Register 98, No. 32).

**1379.3. Delegation of Functions.**

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act (Section 11500 et seq. of the Government Code), the board delegates and confers upon the executive director of the board, or his/her designee, all functions necessary to the dispatch of business of the board in connection with investigative and administrative proceedings under the jurisdiction of the board.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2505 through 2521, Business and Professions Code.

HISTORY:

1. New section filed 4-26-95; operative 5-26-95 (Register 95, No. 17).

**Article 2. Fees****1379.50. Midwifery Fees.**

The licensed midwifery fees are fixed as follows:

(a) The license application fee shall be \$300.00.

(b) The biennial renewal fee shall be \$200.00.

(c) The delinquency fee shall be \$50.00.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2520 through 2521, Business and Professions Code.

HISTORY:

1. New article 2 and section filed 4-25-95; operative 5-25-95 (Register 95, No. 17).

**Article 3. Application****1379.10. Application for Licensure as a Midwife.**

An application for licensure as a midwife shall be filed with the board at its principal office on the prescribed application form (Application for Midwife License - 62A -1(Revised 5-2000) which is incorporated by reference. The application shall be accompanied by such evidence, statements or documents as therein required and filed with the fee required by section 1379.50.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2512, 2517 and 2520, Business and Professions Code.  
HISTORY:

1. New article 3 and section filed 6-30-95; operative 7-30-95 (Register 95, No. 26).
2. Amendment to section filed 11-6-00; operative 12-5-00 (Register 2000, No. 46).

**1379.11 Review of Applications; Processing Time.**

(1) The board shall inform an applicant for licensure as a midwife in writing within 30 days of receipt of an application as to whether the application is complete and accepted for filing or is deficient and what specific information is required.

(2) The board shall inform an applicant for licensure as a midwife in writing within 30 days after notification that an application has been accepted for filing as to whether the applicant meets the requirements for licensure.

NOTE: Authority cited: Section 2018, Business and Professions Code; and Section 15376 Government Code. Reference: Section 2512, Business and Professions Code; and Section 15376 et seq., Government Code.

HISTORY:

1. New section filed 10-5-95; operative 11-4-95 (Register 95, No. 40).

**1379.15. Verification of Minimum Clinical Experiences Required.**

(a) A person may obtain educational credit by examination for previous midwifery education and clinical experience. An applicant for licensure on or before December 31, 1997, who would rely upon such education and experience as his/her sole qualifications for taking the comprehensive licensing exam pursuant to sections 2512.5 and 2513 of the code shall have obtained all of the experiences described in subsection (c) within ten years immediately preceding the date of application.

(b) A person who applies for licensure as a midwife on or after January 1, 1998, who would rely upon credit by examination for previous education and experience as his/her sole qualifications for taking the comprehensive licensing exam pursuant to sections 2512.5 and 2513 of the code shall have obtained at least 50 percent of the experiences described in subsection (c) within five years immediately preceding the date of application.

(c) For purposes of satisfying section 2513(b) of the code, an approved midwifery education program shall verify the following minimum number of clinical experiences:

- (1) 20 new antepartum visits clinical experiences
- (2) 75 return antepartum visits
- (3) 20 labor management experiences
- (4) 20 deliveries
- (5) 40 postpartum visits, within the first five days after birth
- (6) 20 newborn assessments
- (7) 40 postpartum/family planning/gynecology visits

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2513, Business and Professions Code.

HISTORY:

1. New section filed 5-22-96; operative 6-21-96 (Register 96, No. 21).

**1379.20. Liability Insurance Disclosure.**

A midwife who does not have liability insurance coverage for the practice of midwifery shall disclose that fact to the client on the first visit or examination, whichever comes first. The disclosure, whether oral or written, shall be noted and dated in the client's file by the midwife.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2508, Business and Professions Code.

HISTORY:

1. New section filed 5-17-96; operative 6-16-96 (Register 96, No. 20).

**1379.22. Physician Requirements.**

A physician described in Section 2508 of the code shall have hospital privileges in obstetrics and shall be located in reasonable geographical and/or temporal proximity to the patient whose care the physician will assume should complications arise.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2508, Business and Professions Code.

HISTORY:

1. New section filed 11-28-95; operative 12-28-95 (Register 95, No. 48).

**Article 4. Continuing Education****1379.25. Definitions.**

For purposes of this article:

(a) "Continuing education" means the variety of forms of learning experience undertaken by licensed midwives for relicensure, which are meant to directly enhance the licentiate's knowledge, skill or competence in the provision of midwifery services.

(b) "Continuing education hour" means at least fifty (50) minutes of participation in an organized learning experience. One academic quarter unit is equal to ten (10) continuing education hours. One academic semester unit is equal to fifteen (15) continuing education hours.

(c) "Course" means a systematic learning experience, at least one hour in length, which deals with and is designed for the acquisition of knowledge, skills, and information related to the practice of midwifery.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2518, Business and Professions Code.

HISTORY:

1. New article 4 (sections 1379.25-1379.28) filed 7-8-97; operative 8-7-97 (Register 97, No.28).

**1379.26. Approved Continuing Education Programs.**

(a) The following programs are approved by the division for continuing education credit:

(1) Programs offered by the American College of Nurse Midwives;

(2) Programs offered by the Midwives Alliance of North America;

(3) Programs offered by a midwifery school approved by the division;

(4) Programs offered by a state college or university or by a private postsecondary institution accredited by the Western Association of Schools and Colleges;

(5) Programs offered by a midwifery school accredited by the Midwives Education Accreditation Council;

(6) Programs which qualify for Category I credit from the California Medical Association or the American Medical Association;

(7) Programs offered by the Public Health Service.

(8) Programs offered by the California Association of Midwives.

(9) Programs offered by the American College of Obstetricians and Gynecologists.

(b) Only those courses and other education activities that meet the requirements of Section 1379.27 which are offered by these organizations shall be acceptable for credit under this section.

(c) A maximum of one third of the required hours of continuing education may be satisfied by teaching or otherwise presenting a course or program approved under this section.

(d) Tape-recorded courses and correspondence courses offered by an approved provider shall be accepted for no more than half of the total required hours.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2518, Business and Professions Code.

HISTORY:

1. New section filed 7-8-97; operative 8-7-97 (Register 97, No. 28).

**1379.27. Criteria for Acceptability of Courses.**

(a) Those courses and programs referred to in section 1379.26 above shall meet the following criteria in order to be acceptable to the division:

(1) Faculty--the course or program instructor shall : (A) be currently licensed or certified in his/her area of expertise, if appropriate, and (B) show evidence of specialized training which may include, but is not limited to, a certificate of training or an advanced degree in a given subject area. The curriculum vitae of all faculty members shall be kept on file.

(2) Rationale--The need for the course and how the need was determined shall be clearly stated and maintained on file.

(3) Course content--The content of the course or program shall be directly related to midwifery, patient care, community health or public health, preventive medicine, professional ethics, the Medical Practice Act, the Licensed Midwifery Practice Act, or improvement of the midwife-client relationship.

(4) Educational objectives--Each course or program shall clearly state educational objectives that can be realistically accomplished within the framework of the course.

(5) Method of instruction--Teaching methods for each course or program shall be described, e.g. lecture, seminar, audio-visual, simulation.

(6) Evaluation--Each course or program shall include an evaluation method which documents that the educational objectives have been met--for example, written examination or written evaluation by each participant.

(7) Attendance--A course provider shall maintain a record of attendance of each participant.

(b) The division will not give prior approval to individual courses or programs; however, the division will randomly audit courses or programs submitted for credit in addition to any course or program for which a complaint is received. If an audit is made, course providers will be asked to submit to the division documentation concerning each of the items described in subsection (a) above.

(c) Credit toward the required hours of continuing education will not be accepted for any course deemed unacceptable by the division after an audit has been made pursuant to this section.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Section 2518, Business and Professions Code.  
HISTORY:

1. New section filed 7-8-97; operative 8-7-97 (Register 97, No. 28).

**1379.28. Audit and Sanctions for Noncompliance.**

(a) The division shall audit once every two years a random sample of midwives who have reported compliance with the continuing education requirement. No midwife shall be subject to random audit more than once every four (4) years. Those midwives selected for audit shall be required to document their compliance with the continuing education requirements of Section 2518 of the code and this article.

(b) Any midwife who is found not to have completed the required number of hours of approved continuing education will be required to make up any deficiency during the next biennial renewal period. Such midwife shall document to the division the completion of any deficient hours identified by audit. Any midwife who fails to make up the deficient hours during the following renewal period shall be ineligible for renewal of his/her license to practice midwifery until such time as the deficient hours of continuing education are documented to the division.

(c) It shall constitute unprofessional conduct for any midwife to misrepresent his/her compliance with the provisions of this article.

(d) The division requires that each midwife retain for a minimum of four years records of all continuing education programs attended, including the title of the course or program attended, the length of the course or program, the number of continuing education hours, the sponsoring organization and the accrediting organization, if any, which may be needed in the event of an audit by the division.

NOTE: Authority cited: Section 2018, Business and Professions Code. Reference: Sections 2518 and 2519, Business and Professions Code.

HISTORY:

1. New section filed 7-8-97; operative 8-7-97 (Register 97, No. 28).

**Article 5. Educational Requirements****1379.30. Midwifery Education Program.**

The midwifery education program shall prepare the midwife to practice as follows:

- (a) Management of the normal pregnancy.
- (b) Management of normal labor and delivery in all birth settings, including the following, when indicated:
  - (1) Administration of intravenous fluids, analgesics, postpartum oxytocics, and RhoGAM.
  - (2) Amniotomy during labor.
  - (3) Application of external or internal monitoring devices.
  - (4) Administration of local anesthesia, paracervical blocks, pudendal blocks, and local infiltration.
  - (5) Episiotomy.
  - (6) Repair of episiotomies and lacerations.
  - (7) Resuscitation of the newborn.
- (c) Management of the normal postpartum period.
- (d) Management of the normal newborn care, including administration of vitamin K and eye prophylaxis.
- (e) Management of family planning and routine gynecological care including barrier methods of contraception such as diaphragms and cervical caps.

NOTE: Authority cited: Section 2514.5, Business and Professions Code. Reference: Sections 2512.5 and 2514.5, Business and Professions Code.

HISTORY:

1. New Article 5 (sections 1379.30 and 1379.31) and section filed 7-23-98; operative 8-22-98 (Register 98, No. 30).

**1379.31. Evidence of Completion of Educational Requirements.**

For purposes of Section 2515.5 of the code, either of the following shall be deemed satisfactory evidence that an applicant has met the educational standards required for licensure as a midwife:

- (a) A diploma issued by a midwifery program approved by the division; or
- (b) A notice of successful completion of the challenge program (credit by examination) issued by a program approved by the division.

NOTE: Authority cited: Section 2514.5, Business and Professions Code. Reference: Section 2515.5, Business and Professions Code.

HISTORY:

1. New section filed 7-23-98; operative 8-22-98 (Register 98, No. 30).

## DIVISION 13.5. REGISTERED DISPENSING OPTICIANS OF THE MEDICAL BOARD OF CALIFORNIA

### Article 1. General Provisions

#### 1399.200. Citation.

This chapter may be cited and referred to as the "Registered Dispensing Optician Regulations."

NOTE: Authority and reference cited: Section 2558, Business and Professions Code.

HISTORY:

1. New section filed 4-12-79; effective thirtieth day thereafter (Register 79, No. 15).
2. \* Repealer of Chapter 13.5 (Articles 1-10, Sections 1399.200-1399.355, not consecutive), and new Chapter 13.5 (Articles 1-8, Sections 1399.200-1399.28 5, not consecutive) filed 8-3-83; effective thirtieth day thereafter (Register 83, No. 32). For prior history, see Registers 83, No. 18; 83, No. 8; 82, No. 17; 80, No. 6; 79, No. 15; 78, No. 33; 77, No. 51; 76, No. 49; and 75, No. 11.

\* The reorganization of Chapter 13.5 is printed as a repealer and adoption for clarity.

#### 1399.201. Location of Principal Office.

The principal office of the Medical Board of California for the purpose of the administration of the registered dispensing optician program is located at 1430 Howe Avenue, Sacramento, California 95825.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2554, Business and Professions Code.

HISTORY:

1. Change without regulatory effect amending section filed 11-24-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 48).

#### 1399.203. Definitions.

For the purposes of the regulations contained in this Chapter, the term:

- (a) "Board" means the Medical Board of California.
- (b) "Division" means the Division of Licensing of the Medical Board of California.
- (c) "Code" means the Business and Professions Code.
- (d) "Engaging in the business of a dispensing optician" means the filling of prescriptions of licensed physicians and surgeons or optometrists for prescription lenses, and as incidental to the filling of such prescriptions:
  - (1) Using a keratometer to measure the curvature of the cornea of the eye;
  - (2) Converting a compounded prescription for spectacle lens by means of an algebraic formula in order to (a) compensate for the different vertex distance between the eye and the refractionist's test lens and between the eye and lens actually dispensed or, (b) to determine the appropriate power of contact lenses in accordance with such prescription;
  - (3) Taking facial measurements, fitting and adjusting prescription lenses, and fitting and adjusting spectacle frames.
- (f) "Personal knowledge," as used in Section 2552(b) of the code, means knowledge of the affiant which is not based on hearsay.
- (g) "Physician and Surgeon" means a physician and surgeon, holding a valid certificate issued by the board to practice medicine in the State of California.
- (h) "Prescription," as used in Chapter 5.5, Division 2 of the code, means:
  - (1) A written order from a physician and surgeon or optometrist for spectacle or contact lenses, or
  - (2) An oral order from a physician and surgeon or optometrist for spectacle or contact lenses if such order is reduced to writing and a copy of such writing is sent to the prescribing physician or optometrist prior to the delivery of the lenses to the patient.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Sections 2550, 2552 and 2558, Business and Professions Code.

HISTORY:

1. Change without regulatory effect repealing subsection (e) filed 8-22-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 34).
2. Change without regulatory effect amending subsections (a) and (b) filed 11-24-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 48).

**1399.204. Delegation of Functions.**

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act (Section 11500 et seq. of the Government Code), the division delegates and confers upon the executive director of the board, or in his or her absence, the chief of licensing, or his or her designee, all functions necessary to the dispatch of business of the division in connection with investigative and administrative proceedings under the jurisdiction of the division.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2555, Business and Professions Code; and 11500, Government Code.

HISTORY:

1. Change without regulatory effect amending section filed 11-24-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 48).
2. Amendment to section filed 2-26-01; effective upon filing (Register 2001, No. 10).

**Article 2. Applications****1399.220. Applications for Registration.**

All applications shall be submitted on a form provided by the division, accompanied by such evidence, statements or documents as therein required, and filed with the division at its principal office with the required fee.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2555, Business and Professions Code; and 11500, Government Code.

**HISTORY:**

1. Change without regulatory effect amending section filed 8-16-90 pursuant to section 100 title 1, California Code of Regulations (Register 90, No. 42).

**1399.221. Denial of Applications.**

In the event an application is denied pursuant to Section 2552 or 2553.6 of the code, the division shall notify the applicant in writing within thirty days of the deficiencies or reasons for denial, and of the procedure for requesting a hearing on the denial.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Sections 2552, 2553 and 2553.6, Business and Professions Code.

**1399.222. Renewal Applications.**

A renewal application will be submitted on a form provided by the division accompanied by the renewal fee and filed with the division at its office in Sacramento prior to the expiration date of the registration.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2554, Business and Professions Code.

**1399.223. Abandonment of Application.**

An applicant shall be deemed to have abandoned an application if he or she does not complete the requirements for registration within one year from the date on which the application was filed. An application submitted subsequent to an abandoned application shall be treated as a new application.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2551, Business and Professions Code.

**Article 3. Prescriptions for Ophthalmic Devices****1399.230. Oral Prescriptions.**

If an oral prescription or order is received for lenses the order shall be reduced to writing and a copy of such writing sent to the prescribing physician or optometrist prior to the delivery of the lenses to the patient.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2550, Business and Professions Code.

**1399.231. Retention of Records.**

All written prescriptions or oral prescriptions which have been reduced to writing shall be retained for three years after the dates such prescriptions have been filed.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Sections 2550, 2555 and 2556, Business and Professions Code.

**1399.232. Ophthalmic Devices.**

The minimum quality standards for prescription ophthalmic devices sold, dispensed or furnished by registered dispensing opticians are the current standards of the American National Standard Institute Z80.1 and Z80.2.

NOTE: Authority cited: Section 2541.3, Business and Professions Code. Reference: Section 2541.3, Business and Professions Code.

**1399.233. Evaluation of Contact Lenses.**

In accordance with Section 2562 of the Code, a registered contact lens dispenser shall ensure that a written statement is enclosed with each contact lens container which directs the person named in the contact lens prescription to return to the prescribing physician or optometrist for an evaluation within 60 days.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2562, Business and Professions Code.

**HISTORY:**

1. New section filed 5-17-95; operative 6-16-95 (Register 95, No. 20).

**Article 4. Change of Business Name, Business Address, or Ownership****1399.240. Change of Business Name or Address.**

A registrant shall report to the division in writing within ten working days any change of the business name or address. The division shall change its records accordingly, and shall notify the registrant in writing of the change. There is no fee for recording such a change.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Sections 2553 and 2554, Business and Professions Code.

**1399.242. Change of Ownership.**

The division shall be promptly notified by the registrant when there is a change in the ownership of the registrant, and the certificate of registration shall immediately be returned to the division for cancellation. No new certificate of registration shall be issued until the previous certificate is canceled. If there is such a change, the new registrant shall file a new application and pay the prescribed application and initial registration fees.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Sections 2551 and 2553, Business and Professions Code.

**Article 5. Advertising****1399.250. Advertising.**

A registered dispensing optician may advertise the provision of any ophthalmic goods or services authorized to be provided by such registration in a manner authorized by Section 651 of the code so long as such advertising does not promote the excessive or unnecessary use of such services.

NOTE: Authority cited: Sections 651 and 2558, Business and Professions Code. Reference: Sections 651, 2556 and 17500, Business and Professions Code.

**1399.251. Advertisement for Eye Examination.**

It is unprofessional conduct for a registered dispensing optician to advertise a price or fee for a visual eye examination or a complete medical eye examination or to otherwise advertise the furnishing of the services of an optometrist or a physician and surgeon.

NOTE: Authority cited: Sections 651 and 2558, Business and Professions Code. Reference: Sections 651, 2540, 2556 and 17500, Business and Professions Code.

**1399.252. Advertising Requirements.**

Registered dispensing opticians shall include the names under which they are registered in all advertising in connection with the business of dispensing optician. For purposes of this chapter, advertising includes classified directories and solicitations to the public.

NOTE: Authority cited: Sections 651 and 2558, Business and Professions Code. Reference: Sections 651, 2556 and 2558, Business and Professions Code.

**Article 6. Fees****1399.260. Registered Dispensing Optician Fees.**

(a) The initial registration fee shall be \$75.00.

(b) The renewal fee shall be \$75.00.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2565, Business and Professions Code.

HISTORY:

1. Amendment to section filed 11-28-00; operative 12-27-00 (Register 2000, No. 49).

**1399.261. Contact Lens Dispenser Fees.**

(a) The initial registration fee shall be \$75.00.

(b) The biennial renewal fee shall be \$75.00.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2566, Business and Professions Code.

HISTORY:

1. Amendment to section filed 11-28-00; operative 12-27-00 (Register 2000, No. 49).

**1399.262. Refund of Application Fee.**

Any applicant for registration as a contact lens dispenser who does not meet the requirements for registration shall be refunded \$50.00 upon written request.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2566, Business and Professions Code.

**1399.263. Spectacle Lens Dispenser Fees.**

(a) The initial registration fee shall be \$75.00.

(b) The renewal fee shall be \$75.00.

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2566.1, Business and Professions Code.

HISTORY:

1. New section filed 11-28-00; operative 12-27-00 (Register 2000, No. 49).

**Article 7. Enforcement****1399.270. Substantial Relationship Criteria.**

For the purpose of denial, suspension, or revocation of the registration of a dispensing optician pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a dispensing optician if to a substantial degree it evidences present or potential unfitness of a dispensing optician to perform the functions authorized by his registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

(a) Any violation of the provisions of Article 6, Chapter 1, Division 2 of the code relating to dispensing opticians.

(b) Any violation of the provisions of Chapter 5.4, Division 2 of the code.

(c) Any violation of the provisions of Chapter 5.5, Division 2, of the code.

NOTE: Authority cited: Sections 481 and 2558, Business and Professions Code. Reference: Sections 481, 2555.1 and 2556, Business and Professions Code.

**1399.271. Criteria for Denial and Reinstatement of Registration.**

When considering the denial of a registration under Section 480 of the code, or a petition for reinstatement under Section 11522 of the code, the division in evaluating the rehabilitation of the applicant and his or her present eligibility for registration, shall consider the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

(c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b).

(d) In the case of a denial or revocation based upon the conviction of a crime, the criteria set forth in Section 1399.272.

(e) Evidence, if any, of rehabilitation submitted by the applicant.

NOTE: Authority cited: Sections 482 and 2558, Business and Professions Code. Reference: Sections 482, 2555.1 and 2556, Business and Professions Code.

**1399.272. Rehabilitation Criteria for Suspensions and Revocations.**

When considering the suspension or revocation of a registration on the grounds that the registrant has been convicted of a crime, the division, in evaluating the rehabilitation of such person and his or her present eligibility for a registration, shall consider the following criteria:

(a) Nature and severity of the act(s) or offense(s).

(b) Total criminal record.

(c) Extent of time that has elapsed since commission of the act(s) or offense(s).

(d) Whether the registrant has complied with any or all terms of parole, probation, restitution or any other sanctions lawfully imposed against the registrant.

(e) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(f) Evidence, if any, of rehabilitation submitted by the registrant.

NOTE: Authority cited: Sections 482 and 2558, Business and Professions Code. Reference: Sections 482, 2555.1 and 2556, Business and Professions Code.

**1399.274. Definitions.**

As used in Sections 1399.275 through 1399.279, inclusive.

(a) "Chief of licensing" means the chief of the licensing program, or his or her designee, for the division.

(b) "Optician" means a registered dispensing optician, and a registered spectacle lens dispenser or a registered contact lens dispenser, as applicable.

NOTE: Authority cited: Sections 125.9 and 2558, Business and Professions Code. Reference: Sections 2550 and 2550.1, Business and Professions Code.

**HISTORY:**

1. New section filed 6-12-89; operative 7-12-89 (Register 89, No. 25).
2. Amendment of subsection (a) and NOTE filed 2-26-01; effective upon filing (Register 2001, No. 10).

**1399.275. Citations and Fines.**

(a) The chief of licensing is authorized to issue citations containing orders of abatement and fines for violations by opticians of the provisions of law referred to in this section.

(b) A citation shall be issued whenever any fine is levied or any order of abatement is issued. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statute or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.

NOTE: Authority cited: Sections 125.9 and 2558, Business and Professions Code. Reference: Sections 125.9, Business and Professions Code.

**HISTORY:**

1. New section filed 6-12-89; operative 7-12-89 (Register 89, No. 25).
2. Amendment of subsection (a) and NOTE filed 2-26-01; effective upon filing (Register 2001, No. 10).

**1399.276. Amount of Fines.**

The amount of any fine to be levied by the chief of licensing shall take into consideration the factors listed in subdivision (b)(3) of Section 125.9 of the code and shall be within the range set forth in each subsection below.

(a) The fine for a violation of the following provisions shall be from \$1,100 to \$2,500:

- (1) Business and Professions Code Section 810;
- (2) Business and Professions Code Section 2542;
- (3) Business and Professions Code Section 2553;
- (4) Business and Professions Code Section 2556.5;
- (5) Business and Professions Code Section 2559.1;
- (6) Business and Professions Code Section 2559.2(e);
- (7) Business and Professions Code Section 2560.

(b) The fine for a violation of the following provisions shall be from \$100 to \$1,000:

- (1) Business and Professions Code Section 650;
- (2) Business and Professions Code Section 651;
- (3) Business and Professions Code Section 654;
- (4) Business and Professions Code Section 655;
- (5) Business and Professions Code Section 2540;
- (6) Business and Professions Code Section 2541.3;
- (7) Business and Professions Code Section 2543;
- (8) Business and Professions Code Section 2553.6
- (9) Business and Professions Code Section 2554;
- (10) Business and Professions Code Section 2556;
- (11) Business and Professions Code Section 2562;
- (12) Business and Professions Code Section 2564.5;
- (13) Title 16 Cal. Code Reg. Section 1399.230;
- (14) Title 16 Cal. Code Reg. Section 1399.231;
- (15) Title 16 Cal. Code Reg. Section 1399.232;
- (16) Title 16 Cal. Code Reg. Section 1399.240;
- (17) Title 16 Cal. Code Reg. Section 1399.242;
- (18) Title 16 Cal. Code Reg. Section 1399.251;
- (19) Title 16 Cal. Code Reg. Section 1399.252.

(c) In her or his discretion, the chief of licensing may issue an order of abatement without levying a fine for the first violation of any provision set forth in subsection (b).

(d) The sanctions authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

NOTE: Authority cited: Sections 125.9 and 2558, Business and Professions Code. Reference: Sections 125.9, Business and Professions Code.

**HISTORY:**

1. New section filed 6-12-89; operative 7-12-89 (Register 89, No. 25).
2. Amendment of subsection (a)(3)-(4), subsection renumbering and new section filed 3-11-96, operative 4-10-96 (Register 96, No. 11).
3. Amendment of first paragraph, of subsection (c) and NOTE filed 2-26-01; effective upon filing (Register 2001, No. 10).

**1399.277. Compliance with Orders of Abatement.**

(a) If a cited optician who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time from the chief of licensing in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When an order of abatement is not contested or if the order is appealed and the optician cited does not prevail, failure to abate the violation charged within the time allowed shall constitute a violation and failure to comply with the order of abatement. An order of abatement shall either be personally served or mailed by certified mail, return receipt requested. The time allowed for the abatement of a violation shall begin the first day after the order of abatement has been served or received. Such failure may result in disciplinary action being taken by the division or other appropriate judicial relief being taken against the optician cited.

NOTE: Authority cited: Sections 125.9 and 2558, Business and Professions Code. Reference: Sections 125.9, Business and Professions Code.

**HISTORY:**

1. New section filed 6-12-89; operative 7-12-89 (Register 89, No. 25).
2. Amendment of subsection (a) and NOTE filed 2-26-01; effective upon filing (Register 2001, No. 10).

**1399.278. Citations for Unlicensed Practice.**

The chief of licensing is authorized to issue citations containing orders of abatement and fines against persons, partnerships, corporations or associations who are performing or who have performed services for which registration as an optician is required under Chapters 5.4 and 5.5 of Division 2 of the Code. Each citation issued shall contain an order of abatement. Where appropriate the chief of licensing shall levy a fine for such unlicensed activity in accordance with subdivision (b) (3) of Section 125.9 of the code. The provisions of Sections 1399.275 and 1399.277 shall apply to the issuance of citations for unlicensed activity under this subsection. The sanctions authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

NOTE: Authority cited: Sections 125.9 and 2558, Business and Professions Code. Reference: Sections 125.9, Business and Professions Code.

**HISTORY:**

1. New section filed 6-12-89; operative 7-12-89 (Register 89, No. 25).
2. Amendment of section and NOTE filed 2-26-01; effective upon filing (Register 2001, No. 10).

**1399.279. Contest of Citations.**

(a) In addition to requesting a hearing provided for in subdivision (b) (4) of Section 125.9 of the code, the optician cited may, within ten (10) days after service or receipt of the citation, notify the chief of licensing in writing of his or her request for an informal conference with the chief of licensing regarding the acts charged in the citation. The time allowed for the request shall begin the first day after the citation has been served or received.

(b) The chief of licensing shall hold, within 30 days from the receipt of the request, an informal conference with the optician cited for his or her legal counsel or authorized representative. At the conclusion of the informal conference the chief of licensing may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The chief of licensing shall state in writing the reasons for his or her action and serve or mail, as provided in subsection (b) of Section 1399.277, a copy of his or her findings and decision to the optician cited within ten days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) The optician cited does not waive his or her request for a hearing to contest a citation by requesting an informal conference after which the citation is affirmed by the chief of licensing. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 days in accordance with subdivision (b) (4) of Section 125.9.

NOTE: Authority cited: Sections 125.9 and 2558, Business and Professions Code. Reference: Sections 125.9, Business and Professions Code.

**HISTORY:**

1. New section filed 6-12-89; operative 7-12-89 (Register 89, No. 25).
2. Amendment of subsections (a), (b) and (c) filed 2-26-01; effective upon filing (Register 2001, No. 10).

**Article 8. Optical Dispensing Educational Programs****1399.280. Substitute for Experience.**

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2553, Business and Professions Code; and 11500, Government Code.

**HISTORY:**

1. Change without regulatory effect repealing section filed 8-16-90 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 42).

**1399.281. Definition.**

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2553, Business and Professions Code; and 11500, Government Code.

**HISTORY:**

1. Change without regulatory effect repealing section filed 8-16-90 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 42).

**1399.282. Requirements for Approval of a Program.**

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2552, Business and Professions Code.

**HISTORY:**

1. Change without regulatory effect repealing section filed 8-16-90 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 42).
2. Editorial correction deleting text and adding HISTORY: 1 (Register 94, No. 32).

**1399.283. Documentation Required for Approval.**

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2552, Business and Professions Code.

**HISTORY:**

1. Change without regulatory effect repealing section filed 8-16-90 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 42).

**1399.284. Notification of Program Changes.**

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2552, Business and Professions Code.

**HISTORY:**

1. Change without regulatory effect repealing section filed 8-16-90 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 42).

**1399.285. Suspension or Revocation of Approval.**

NOTE: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2552, Business and Professions Code.

**HISTORY:**

1. Change without regulatory effect repealing section filed 8-16-90 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 42).